



សាកលវិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និងវិទ្យាសាស្ត្រសេដ្ឋកិច្ច

Université Royale de Droit et des Science Economiques
Royal University of Law and Economics



សាលាបញ្ចប់ការសិក្សា

ការទទួលស្គាល់រដ្ឋ៖ ករណីកោះតែវ៉ាន់

ស្រាវជ្រាវចាប់ពីថ្ងៃទី០៣ ខែមេសា ឆ្នាំ២០២៣ ដល់ថ្ងៃទី៣១ ខែឧសភា ឆ្នាំ២០២៣

ស្រាវជ្រាវដោយ

និស្សិតឈ្មោះ លោក **គង់ តាយសេង**
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ថ្នាក់បរិញ្ញាបត្រ **នីតិសាស្ត្រ**
ជំនាន់ទី ២៣

ឆ្នាំចូលសិក្សា ២០១៩
ឆ្នាំសរសេរសារណា ២០២៣



សាកលវិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និងវិទ្យាសាស្ត្រសេដ្ឋកិច្ច

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សារណាមក្នុងការសិក្សា

ការទទួលស្គាល់រដ្ឋ៖ ករណីកោះតែវ៉ាន់

ស្រាវជ្រាវចាប់ពីថ្ងៃទី០៣ ខែមេសា ឆ្នាំ២០២៣ ដល់ថ្ងៃទី៣១ ខែឧសភា ឆ្នាំ២០២៣

ស្រាវជ្រាវដោយ

និស្សិតឈ្មោះ លោក គង់ សាយសេង

ភិក្ខុ ម៉ម ម៉ាម

ណែនាំដោយ

បណ្ឌិត ឃឹម ឆីរី

ថ្នាក់បរិញ្ញាបត្រ នីតិសាស្ត្រ

ជំនាន់ទី ២៣

ឆ្នាំចូលសិក្សា

២០១៩

ឆ្នាំសរសេរសារណា

២០២៣

អំណះអំណាង

យើងខ្ញុំឈ្មោះ **គង់ តាយសេង** និង **ម៉ម ម៉ាម៉** ជានិស្សិតថ្នាក់បរិញ្ញាបត្រ ផ្នែកនីតិសាស្ត្រ ជំនាន់ទី២៣ ឆ្នាំសិក្សា ២០១៩-២០២៣ នៃសាកលវិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និងវិទ្យាសាស្ត្រសេដ្ឋកិច្ច សូមធ្វើការអះអាងចំពោះខ្លឹមសារសារណាបញ្ចប់ការសិក្សាថ្នាក់បរិញ្ញាបត្រនេះ ពិតជាត្រឹមត្រូវចេញពីគំនិតផ្ទាល់ខ្លួនរបស់យើងខ្ញុំ និងដោយបានការជួយជ្រោមជ្រែងពី **បណ្ឌិត ឃឹម គីរី** ទាំងឯកសារស្មារតី និងការជួយពន្យល់បង្ហាត់បង្ហាញ ដែលធ្វើឱ្យយើងខ្ញុំមាន ទុននៅក្នុងការសរសេរសារណានេះឡើង ដោយមិនមានការចិតចម្លងសារណា ឬរបាយការណ៍ ឬនិក្ខេបបទ របស់អ្នកផ្សេងឡើយ។

ថ្ងៃអង្គារ ១៥កើត ខែទុតិយាសាឆ ឆ្នាំថោះ បញ្ចស័ក ព.ស.២៥៦៧

រាជធានីភ្នំពេញ, ថ្ងៃទី០១ ខែសីហា ឆ្នាំ២០២៣

ហត្ថលេខា



លោក **គង់ តាយសេង**

ហត្ថលេខា



ភិក្ខុ **ម៉ម ម៉ាម៉**

សេចក្តីថ្លែងអំណរគុណ

យើងខ្ញុំឈ្មោះ **គង់ តាយសេង** និង **ម៉ម ម៉ាម៉** ជានិស្សិតថ្នាក់បរិញ្ញាបត្រនីតិសាស្ត្រជំនាន់ទី២៣ នៃសាកលវិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និងវិទ្យាសាស្ត្រសេដ្ឋកិច្ច ឆ្នាំសិក្សា២០១៩-២០២៣។

សូមលំឱនកាយសម្តែងនូវកតញ្ញាភាពពោះ៖

លោកឪពុកអ្នកម្តាយ ដែលបានផ្តល់កំណើត បីបាច់ថែរក្សាឱ្យរស់ប្រកបដោយក្តីស្រលាញ់អប់រំ ទូន្មានប្រៀនប្រដៅប្រកបដោយទំនួលខុសត្រូវខ្ពស់បំផុត និងការជួយទំនុកបម្រុងគ្រប់បែបយ៉ាងដើម្បីឱ្យ កូនទទួលបានការសិក្សាតាំងពីបឋមសិក្សា រហូតដល់ថ្នាក់បរិញ្ញាបត្រនីតិសាស្ត្រនេះប្រកបដោយសេចក្តី សមប្រកប និងជោគជ័យ។

ឯកឧត្តមបណ្ឌិត លុយ ចន្ទ្យា សាកលវិទ្យាធិការនៃសាកលវិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និង វិទ្យាសាស្ត្រសេដ្ឋកិច្ច ដែលបានអនុញ្ញាតឱ្យពួកយើងខ្ញុំ បានសិក្សានៅសាកលវិទ្យាល័យនេះ និងបានបង្ក នូវភាពងាយស្រួលដល់ការសិក្សាសម្រាប់និស្សិតគ្រប់រូប។

បណ្ឌិត ឃឹម គីរី ដែលបាន ចំណាយពេលវេលាដ៏មមាញឹក និងមានតម្លៃបំផុត ក្នុងការធ្វើជា សាស្ត្រាចារ្យណែនាំលើការសរសេរសារណាបញ្ចប់ថ្នាក់បរិញ្ញាបត្រមួយនេះ ព្រមទាំងការបង្ហាត់បង្ហាញ និង បង្កលក្ខណៈងាយស្រួលបំផុតក្នុងការសរសេរសារណាបញ្ចប់ការសិក្សារបស់យើងខ្ញុំ។

ថ្នាក់ដឹកនាំ សាស្ត្រាចារ្យ សាស្ត្រាចារ្យរង សាស្ត្រាចារ្យជំនួយ លោក/លោកស្រី បុគ្គលិកសិក្សានៃ សាកលវិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និងវិទ្យាសាស្ត្រសេដ្ឋកិច្ចទាំងអស់ដែលបានបង្ហាត់បង្រៀន និងបង្កភាព ងាយស្រួលក្នុងដំណើរការសិក្សាតាំងពីដើមមក។

ក្រសួងស្ថាប័នពាក់ព័ន្ធ អ្នកនិពន្ធ ម្ចាស់ឯកសារ និងអ្នកស្រាវជ្រាវទាំងឡាយដែលបានចូលរួម ចំណែកយ៉ាងសំខាន់សម្រាប់ពួកយើងធ្វើការស្រាវជ្រាវនិងសិក្សាកន្លងមក។

ជាចុងក្រោយ សូមប្រសិទ្ធពរជ័យជូនដល់ លោកអ្នកមានគុណ ឯកឧត្តមបណ្ឌិតសាកលវិទ្យាធិការ សាកលវិទ្យាធិការរង បណ្ឌិត សាស្ត្រាចារ្យ សាស្ត្រាចារ្យរង សាស្ត្រាចារ្យជំនួយ លោក/លោកស្រី និង បុគ្គលិកសិក្សាទាំងអស់ សូមឱ្យជួបតែសេចក្តីសុខ សេចក្តីសម្រេច សុខភាពល្អ កម្លាំងមាំមួន ជោគជ័យ គ្រប់ការកិច្ច និងទទួលបាននូវពុទ្ធិព្រឹទ្ធ ដូចបំណងប៉ងប្រាថ្នា និងឈ្នះអស់មារសត្រូវទាំងឡាយ។

សូមអ្នកមានគុណទាំងពីរ ឯកឧត្តមសាកលវិទ្យាធិការ សាកលវិទ្យាធិការរង បណ្ឌិត សាស្ត្រាចារ្យ សាស្ត្រាចារ្យរង សាស្ត្រាចារ្យជំនួយ លោក/លោកស្រី បុគ្គលិកសិក្សា ទទួលបានការគោរពដឹងគុណពីយើងខ្ញុំ ទាំងពីររូប។



អារម្ភកថា

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ក្រោមការគាំទ្រ ជម្រុញ លើកទឹកចិត្ត និងជួយបង្ហាត់បង្រៀនយ៉ាងយកចិត្តទុកដាក់ ពីសំណាក់ លោកឪពុកអ្នកម្តាយ សាស្ត្រាចារ្យទាំងអស់ នៅក្នុងសាកលវិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និងវិទ្យាសាស្ត្រសេដ្ឋកិច្ច ជាពិសេស បណ្ឌិត ឃឹម គីរី ទីបំផុតសៀវភៅសារណាបញ្ចប់ការសិក្សា ក៏បានចាប់បដិសន្ធិឡើង។ សៀវភៅដែល មិត្តអ្នកអាន កំពុងតែកាន់នៅ នឹងដៃ គឺជាសមិទ្ធផលថ្មីមួយ ដែលយើងខ្ញុំទាំងពីរ ជានិស្សិតផ្នែកនីតិសាស្ត្រ ថ្នាក់ L4B1 បានខិតខំប្រឹងប្រែងរួមគ្នាបង្កើតឡើង ក្រោមប្រធានបទ «ការទទួលស្គាល់រដ្ឋ៖ ករណីកោះតែវ៉ាន់»។

ដូចអ្វីដែលមិត្តទាំងអស់គ្នាធ្លាប់បានដឹង និងបានឮរួចមកហើយថា ភាពជាដៃគូពេញលេញ ចាំបាច់ត្រូវមានការ ទទួលស្គាល់ ហើយចំពោះបញ្ហាកោះតែវ៉ាន់ឯណោះវិញមានភាពមិនច្បាស់លាស់សូម្បីអ្នកសិក្សាស្រាវជ្រាវ ក៏ដូច ជាភាគីកោះតែវ៉ាន់ខ្លួនឯងផ្ទាល់ពុំច្បាស់លាស់អំពីតួនាទី ក៏ដូចជាភាពជាដៃគូពេញលេញ ដែលសម្តែងឡើងក្នុង បញ្ហាអន្តរជាតិ និងមានបញ្ហាប្រឈមចំពោះប្រវត្តិសាស្ត្ររបស់ខ្លួនជាមួយនិងប្រទេសចិន។ ម៉្យាងវិញទៀត មូលហេតុដែលយើងខ្ញុំទាំងពីរសម្រេចចិត្តជ្រើសរើសយក ប្រធានបទ «ការទទួលស្គាល់រដ្ឋ៖ ករណីកោះតែវ៉ាន់» ដោយសារយើងខ្ញុំគិតថា ជាប្រធានបទមួយថ្មីសម្រាប់មិត្តនិស្សិត ក៏ដូចជាអ្នកសិក្សាជំនាន់ក្រោយៗ អាចធ្វើ ការសិក្សា និងស្រាវជ្រាវបន្ថែម អំពីការទទួលស្គាល់រដ្ឋ ក៏ដូចជាភាពជាដៃគូពេញលេញ និងស្ថានភាពផ្សេងៗទៀត នៃរដ្ឋដទៃទៀត ឬបញ្ហានៃកោះតែវ៉ាន់នេះ។ ទោះបីជាមានការខិតខំចងក្រងនូវសារណាដោយយកចិត្តទុកដាក់ យ៉ាងណាក្តី ក៏យើងខ្ញុំនៅតែជឿជាក់ថា កំហុសនៅតែមាន ដោយសារតែយើងខ្ញុំដែលជាអ្នកសិក្សាស្រាវជ្រាវក្នុង ការបង្កើតស្នាដៃ នៅមានភាពក្មេងខ្ចី។ ដូច្នេះហើយ ប្រសិនបើសារណាបញ្ចប់ការសិក្សារបស់យើងខ្ញុំមានកំហុសឆ្គង យ៉ាងណា សូម សាស្ត្រាចារ្យ សាស្ត្រាចារ្យរង សាស្ត្រាចារ្យជំនួយ លោក/លោកស្រី អ្នកស្រាវជ្រាវ និងមិត្តអ្នកអាន ទាំងអស់មេត្តាខន្តីអភ័យទោសដល់យើងខ្ញុំផង។ យើងខ្ញុំព្រមទទួលនូវរាល់ពាក្យពេជ័ន៍ទាំងឡាយ ក្នុងន័យរិះគន់ ដើម្បីស្ថាបនា ព្រោះយើងខ្ញុំតែងតែសង្ឃឹមជឿជាក់ថា សារណារបស់យើងខ្ញុំ នឹងអាចក្លាយជាប្រយោជន៍ដល់អ្នក សិក្សាជំនាន់ក្រោយ ប្រៀបដូចជាប្រទីបសម្រាប់បំភ្លឺដល់ការសិក្សា និងជាយានដើម្បីឆ្លងឱ្យដល់ត្រើយនៃបញ្ញាវន្ត។

ជាចុងក្រោយនេះ យើងខ្ញុំទាំងពីររូប សូមលើកដៃបួងសួងដល់វត្ថុសក្តិសិទ្ធិទាំងអស់នៅក្នុងលោកសូមគោរព ជូនពរដល់លោកឪពុកអ្នកម្តាយ សាស្ត្រាចារ្យ សាស្ត្រាចារ្យរង សាស្ត្រាចារ្យជំនួយ លោក/លោកស្រី នៃសាកល វិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និងវិទ្យាសាស្ត្រសេដ្ឋកិច្ច ពិសេស **បណ្ឌិត ឃឹម គីរី** ក៏ដូចជាមិត្តអ្នកអានទាំងអស់ ឱ្យជួបតែពុទ្ធពរទាំង៤ប្រការគឺ អាយុ វណ្ណៈ សុខៈ ពលៈ កុំបីឃ្លៀងឃ្លាតឡើយ។

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២.២.១ ការទទួលស្គាល់រដ្ឋ និងរដ្ឋាភិបាល	២០
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២.៣.១ វិបាកកម្រិតអន្តរជាតិនៃការទទួលស្គាល់	២៤
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២.៣.២ វិបាកកម្រិតជាតិនៃការទទួលស្គាល់	២៥
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ករណីកោះតែវ៉ាន់

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៣.១.១ បញ្ហាប្រជាពលរដ្ឋ	២៧
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៣.២.១ ចំណុចវិជ្ជមាន	៣០
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៣.២.២ ចំណុចអវិជ្ជមាន	៣០
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៣.២.២.១ សមត្ថភាពក្នុងការកសាងទំនាក់ទំនងជាមួយរដ្ឋដទៃ	៣០
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៣.២.២.២ ករណីនៃការទទួលស្គាល់សាធារណរដ្ឋប្រជាមានិតចិន	៣១
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៣.២.២.៣ ភាពអវិជ្ជមានដ៏ធំបំផុតនៃស្ថានភាពនយោបាយ	៣២
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ឯកសារយោង

ឧបសម្ព័ន្ធ

សេចក្តីផ្តើម

សេចក្តីផ្តើម

១. លំនាំបញ្ជី

«កោះតៃវ៉ាន់» ជាពាក្យមួយដែលអ្នកសិក្សាពិសេសជំនាញទំនាក់ទំនងអន្តរជាតិ ក៏ដូចជាអ្នកច្បាប់អន្តរជាតិ មួយចំនួនតែងតែឮ និងតាមដានយ៉ាងយកចិត្តទុកដាក់ បន្ទាប់ពីបញ្ហាប្រឈមនៃវិបត្តិសង្គ្រាមរវាងរុស្ស៊ី-អ៊ុយក្រែន បញ្ហាប្រឈមនៃវិបត្តិសេដ្ឋកិច្ចសកល ជាពិសេសបញ្ហាក្តៅគគុកនៃការដោះស្រាយមិនរួចនៃវិបត្តិក្នុងរយៈពេល កន្លងមក នៅមីយ៉ាន់ម៉ាដែលជាប្រទេសមួយស្ថិតនៅក្នុងតំបន់អាស៊ីអាគ្នេយ៍ផងដែរ។ លើសពីនេះទៅទៀត ស្ថានភាពកោះតៃវ៉ាន់ មានភាពស្មុគស្មាញដែលអ្នកសិក្សាស្រាវជ្រាវ ក៏ដូចជាសិស្ស-និស្សិតមួយចំនួនពុំអាច កំណត់ជាក់ច្បាស់ពីបច្ចុប្បន្នភាពនៃកោះតៃវ៉ាន់មួយនេះ ដែលមានស្ថានភាព ក៏ដូចជាបរិបទអន្តរជាតិជាច្រើនទៀត ចាំបាច់ត្រូវសិក្សាស៊ីជម្រៅបន្ថែមទៀតស្របនឹងជម្លោះដែលតែងតែកើតមាននូវទិដ្ឋភាពមួយចំនួន។

ជាការពិតណាស់ រហូតមកទល់ពេលនេះបញ្ហាកោះតៃវ៉ាន់នៅតែមិនទាន់មានភាពដាច់ស្រេច ស្របពេល ជាមួយគ្នា ក៏មានមន្ត្រីរបស់សហរដ្ឋអាមេរិក គឺលោកស្រីប្រធានសភា ណានស៊ី ប៉េឡូស៊ី បានធ្វើទស្សនកិច្ចមក កោះតៃវ៉ាន់ ហើយបានបង្កឱ្យមានភាពតានតឹង ពិសេសរវាងចិន និងកោះតៃវ៉ាន់ ដែលដំណើរទស្សនកិច្ចនេះធ្វើ ឡើងនៅដើមខែសីហា ឆ្នាំ២០២២។¹ ស្របពេលនោះផងដែរ ប្រទេសចិនក៏បានធ្វើសមយុទ្ធយោធាជុំវិញកោះតៃវ៉ាន់ ហើយភាគីខាងប្រទេសចិនក៏បានគម្រាមយ៉ាងខ្លាំងមុនពេលលោកស្រីដែលជាប្រធានសភានៃសហរដ្ឋអាមេរិក ដែលមកទស្សនកិច្ចផងដែរ។² ក៏ប៉ុន្តែទោះបីចិនគម្រាមយ៉ាងណាក៏លោកស្រី នៅតែមកទស្សនកិច្ច។ រីឯភាគីចិន ឯណោះវិញបានត្រឹមធ្វើសមយុទ្ធយោធា ដោយពុំមានការបាញ់ ឬប្រើយន្តហោះប្រដេញណាមួយតាម លោកស្រី ប្រធានសភាអាមេរិកនោះឡើយ។ តែបើទោះបីជាមានស្ថានភាពយ៉ាងណាក៏ដោយ ក៏ត្រូវបានអ្នកសិក្សាគ្រប់ មជ្ឈដ្ឋានទាំងអស់បានដាក់ជាសំនួរ និងជាចម្ងល់ មួយថា «តើកោះតៃវ៉ាន់ជាកោះឯករាជ្យ ឬជាផ្នែកមួយនៃដែនដី អធិបតេយ្យរបស់ប្រទេសចិន?»។

មុននឹងឈានចូលដល់ការសិក្សា ផ្នែកញែក ក៏ដូចជាការស្វែងយល់ឱ្យស៊ីជម្រៅតាមបែបផែនដីមួយៗ ឬ លើកយកនូវបច្ចុប្បន្នភាពក៏ដូចជាទង្វើករណីផ្សេងៗទៀត សូមលើកយកនូវប្រវត្តិសាស្ត្រនៃរដ្ឋាភិបាលកោះតៃវ៉ាន់ និងរដ្ឋាភិបាលនៃប្រទេសចិន។ នៅឆ្នាំ១៩៣៩ ដោយសារកត្តាសង្គ្រាមលោកលើកទី២ ផ្ទុះឡើងផង ដោយសារកត្តា សង្គ្រាមស៊ីវិលផង និងកត្តាជប៉ុនលុកលុយផង ទឹកដីនៃប្រទេសចិនត្រូវបានបែងចែកជា ៣ផ្នែក។ ផ្នែកខាងកើត

¹ សូមមើលគេហទំព័រ៖ <https://www.reuters.com/world/asia-pacific/us-lawmakers-arrive-taiwan-thursday-report-2022-08-25/> ចុះផ្សាយនៅថ្ងៃទី២៦ ខែសីហា ឆ្នាំ២០២២។ (ចូលមើលចុងក្រោយ ថ្ងៃទី០៤ ខែវិច្ឆិកា ឆ្នាំ២០២២)

² សូមមើលគេហទំព័រ៖ <https://www.reuters.com/world/pelosi-visit-taiwan-tuesday-taiwan-media-2022-08-01/> ចុះផ្សាយ នៅថ្ងៃទី០១ ខែសីហា ឆ្នាំ២០២២។ (ចូលមើលចុងក្រោយ ថ្ងៃទី០៤ ខែវិច្ឆិកា ឆ្នាំ២០២២)

ស្ថិតក្រោមការកាន់កាប់របស់ជប៉ុន ខាងលិច និងខាងត្បូង ស្ថិតក្រោមការកាន់កាប់របស់ លោក ចាង ខៃចៀក ចំណែកខាងផ្នែកពាយ័ព្យវិញ (ខាងលិចឆៀងខាងជើង) ស្ថិតក្រោមការកាន់កាប់របស់បក្សកុម្មុយនីស្ត ដឹកនាំដោយលោក ម៉ៅ សេទុង។ អំឡុងសង្គ្រាមលោកលើកទី២ ម៉ៅ សេទុង មានកងទ័ពជាង១លាននាក់ និងគ្រប់គ្រងដែនដី ដែលមានប្រជាជនជាង ១០០លាននាក់ ហើយចំណែកខាង ចាង ខៃចៀក ដែលទទួលបានជំនួយពីអាមេរិក មានចំនួនកងទ័ពច្រើនណាស់ តែគុណភាពអន់។^៣ មេទ័ពរបស់ក្រុម ចាង ខៃចៀក ត្រូវបានតែងតាំង និងដំឡើងឋានៈ តាមរយៈបក្ខពួកនិយមដោយមិនខ្វល់ពីសមត្ថភាពឡើយ។ ដោយសារតែការមិនចេះគ្រប់គ្រងទ័ព បានធ្វើឱ្យទ័ពនៅតាមសមរភូមិខ្វះស្បៀង និងខ្វះគ្រឿងសព្វាវុធ។ ទីបំផុត ចាង ខៃចៀក ក៏ត្រូវបានចាញ់សង្គ្រាម។ នៅក្នុងឆ្នាំ១៩៤៩ កងទ័ពរបស់ ម៉ៅ សេទុង បានវាយចូលទីក្រុងណានជីង ដែលជាតំបន់រដ្ឋបាលរបស់ ចាង ខៃចៀក ធ្វើឱ្យរដ្ឋាភិបាលមួយនេះ រត់ទៅក្លាងទុង និងស៊ីឈាន់ ខណៈចុងក្រោយគេនោះ ត្រូវរត់ទៅកោះតៃវ៉ាន់។ ចាង ខៃចៀក បាននាំមន្ត្រី និងទ័ព ថែមទាំងសាច់ញាតិ ប្រហែលជិត២លាននាក់ និងបានប្រកាសយកក្រុងតៃប៉ិ នៅកោះតៃវ៉ាន់ ធ្វើជាដ្ឋធានីបណ្តោះអាសន្ននៃរបបសាធារណរដ្ឋចិនរបស់ខ្លួនតែម្តង។ ចំណែកចិនដីគោកទាំងមូល ត្រូវបានធ្លាក់ក្រោមការគ្រប់គ្រងបក្សកុម្មុយនីស្តចិន របស់លោក ម៉ៅ សេទុង ហើយលោកបានរៀបចំប្រទេសចិនសាជាថ្មី។ បន្ថែមលើនេះនៅថ្ងៃទី០១ ខែតុលា ឆ្នាំ១៩៤៩ លោកប្រធាន ម៉ៅ សេទុង បានប្រកាសបង្កើតសាធារណរដ្ឋប្រជាមានិតចិន ដោយយកទីក្រុងប៉េកាំង ជាដ្ឋធានីចាប់ពីពេលនោះមក។

បញ្ហានៃការបែកបាក់នេះ ពិសេសកោះតៃវ៉ាន់ត្រូវបានកំណត់ នៅក្នុងរដ្ឋធម្មនុញ្ញនៃសាធារណរដ្ឋប្រជាមានិតចិន ក្នុងផ្នែកមួយនៃ បុព្វកថា បានសរសេរយ៉ាងច្បាស់អំពីកោះតៃវ៉ាន់ដោយបានលើកឡើងថា «តៃវ៉ាន់គឺជាផ្នែកមួយនៃដែនដីពិសិដ្ឋនៃសាធារណរដ្ឋប្រជាមានិតចិន។ វាគឺជាកាតព្វកិច្ចដ៏ពិសិដ្ឋរបស់ប្រជាជនចិនទាំងអស់រួមទាំងបងប្អូនជនជាតិចិនរបស់យើងនៅតៃវ៉ាន់ផងដែរ ដើម្បីសម្រេចបាននូវការបង្រួបបង្រួមជាតិមាតុភូមិដ៏អស្ចារ្យ។»^៤ ហើយក៏បានចាត់ទុក សាធារណប្រជាមានិតចិន ជាដ្ឋាភិបាលស្របច្បាប់តែមួយគត់នៃប្រទេសចិនក៏ជាវិធីសាស្ត្រមួយដែលបានធ្វើឱ្យពិភពលោកទទួលស្គាល់អំពី «គោលការណ៍ចិនតែមួយ One-China» និងជាគោលការណ៍របស់ប្រទេសចិនក្នុងការបង្រួបបង្រួម រវាងដ្ឋាភិបាលតៃវ៉ាន់ ជាមួយ ចិនដីគោក។

^៣ សូមមើលគេហទំព័រ៖ <https://m.freshnewsasia.com/index.php/en/freshnewsplus/171651-2020-09-24-12-51-15.html> ចុះផ្សាយនៅថ្ងៃទី០៩ ខែកញ្ញា ឆ្នាំ២០២២។ (ចូលមើលចុងក្រោយ ថ្ងៃទី០៤ ខែវិច្ឆិកា ឆ្នាំ២០២២)

^៤ សូមមើលគេហទំព័រ៖ http://english.www.gov.cn/archive/lawsregulations/201911/20/content_WS5ed8856ec6d0b3f0e9499913.html ចូលមើលចុងក្រោយ នៅថ្ងៃទី០៤ ខែវិច្ឆិកា ឆ្នាំ២០២២។

២. បំណងបញ្ជាក់

បន្ទាប់ពីបានលើកឡើងនៅបញ្ហារដ្ឋធម្មនុញ្ញនៃសាធារណរដ្ឋប្រជាមានិតចិន ក៏ដូចជាគោលការណ៍ចិនតែមួយ និងទិដ្ឋភាពប្រវត្តិខ្លះៗដូចរៀបរាប់ខាងលើ បន្ទាប់ទៅនឹងលើកយកគោលការណ៍ភាពជាដៃគូដែលនៅក្នុងក្របខណ្ឌ ឬជាលក្ខខណ្ឌទូទៅ មកសិក្សាបន្ថែម និងលើកយកទិដ្ឋភាពនៃស្ថាប័នអន្តរជាតិដើម្បីស្វែងយល់ឱ្យកាន់តែច្បាស់អំពីតួនាទីជាដៃគូ បញ្ហាប្រឈម ក៏ដូចជាស្ថានភាពនានា ដើម្បីជាទង្វើករណ៍សិក្សាបន្ថែមឱ្យកាន់តែស៊ីជម្រៅពីបញ្ហាកោះតៃវ៉ាន់ ជាដំបូងយើងត្រូវសិក្សានូវទង្វើករណ៍ទាំងទិដ្ឋភាពច្បាប់ នីតិអន្តរជាតិ ក៏ដូចជាទង្វើករណ៍ខ្លះៗអំពីកោះតៃវ៉ាន់ (ផ្នែកទី១) មុននឹងសិក្សាអំពីស្ថានភាពឬទិដ្ឋភាពប្រឈមនៃការទទួលស្គាល់រដ្ឋដែលឆ្លុះបញ្ចាំងនៅក្នុងនីតិអន្តរជាតិ (ផ្នែកទី២) និងបន្តសិក្សាឱ្យកាន់តែស៊ីជម្រៅបន្ថែមទៀតអំពីករណីកោះតៃវ៉ាន់ (ផ្នែកទី៣)។

៣. គោលបំណងនៃការស្រាវជ្រាវ

ដើម្បីឱ្យសារណា ឬការសិក្សាស្រាវជ្រាវនេះ មានភាពជោគជ័យនិងទទួលនូវលទ្ធផលល្អ យើងគួរគប្បីកំណត់គោលបំណងឱ្យបានច្បាស់លាស់ជាមុនសិន គោលបំណងទាំងនោះរួមមាន៖

- ស្វែងយល់អំពីគោលបំណង ព្រមទាំងចរិតលក្ខណៈនៃការទទួលស្គាល់រដ្ឋ
- ស្វែងយល់អំពីលក្ខខណ្ឌឬចំណុចសំខាន់ៗនៃការទទួលស្គាល់រដ្ឋ
- សិក្សាអំពីលក្ខខណ្ឌនៃការទទួលស្គាល់រដ្ឋ
- សិក្សាអំពីឧទាហរណ៍នៃប្រទេសផ្សេងៗជាគម្រោង
- សិក្សាអំពីស្ថានភាពប្រឈមនិងវិបត្តិនានា។

៤. ដែនកំណត់នៃការស្រាវជ្រាវ

ក្នុងការសិក្សាស្រាវជ្រាវប្រធានបទស្តីពី «ការទទួលស្គាល់រដ្ឋ៖ ករណីកោះតៃវ៉ាន់» សារណានេះផ្ដោតទៅលើការទទួលស្គាល់រដ្ឋមួយជាដងកាដៀង។ ការទទួលស្គាល់នេះផ្អែកទៅលើទិដ្ឋភាពជាក់ស្តែងផ្សេងៗជាច្រើន ជាពិសេសបញ្ហាកោះតៃវ៉ាន់ ដែលនឹងត្រូវយកមកសិក្សាផ្នែកទ្រឹស្តីនិងការអនុវត្តជាក់ស្តែង រួមផ្សំនឹងការវែកញែកស្រាវជ្រាវ និងបកស្រាយនូវសេចក្តីលម្អិតទាំងអស់ដែលជាប់ពាក់ព័ន្ធក្នុងប្រធានបទខាងលើ។

៥. សារៈសំខាន់នៃការសិក្សាស្រាវជ្រាវ

ការសិក្សាស្រាវជ្រាវលើប្រធានបទស្តីពីការទទួលស្គាល់រដ្ឋ ករណីកោះតៃវ៉ាន់ នឹងជួយពង្រឹងនូវការយល់ដឹងកាន់តែច្បាស់ ទាំងចំណេះដឹងខាងផ្នែកទ្រឹស្តី ការអនុវត្តជាក់ស្តែងពាក់ព័ន្ធនឹងការទទួលស្គាល់រដ្ឋ។ មួយចំណែកទៀត គឺផ្តល់ចំណេះដឹងពាក់ព័ន្ធនឹងស្ថានភាពក្នុងសង្គមផ្សាភ្ជាប់នឹងបញ្ហាប្រឈមក្នុងពិភពលោកនៃការប្រកាសខ្លួនជាដើម។

ការស្រាវជ្រាវពីការទទួលស្គាល់រដ្ឋក៏បានផ្តល់នូវការយល់ដឹងបន្ថែមក្នុងស្ថានភាពមួយចំនួនក្នុងការក្លាយជារដ្ឋឱ្យបានទូលាយជាមួយនឹងករណីសិក្សា នៃកោះតៃវ៉ាន់ដែលធ្លាប់តែមានបញ្ហាប្រឈមសឹងតែពុំអាចបែងចែកជាច្បាស់លាស់ ពិសេសជាងនេះទៅទៀតការស្រាវជ្រាវនេះ នឹងផ្តល់ផលប្រយោជន៍ ចំណេះដឹង ដល់អ្នកសិក្សាជំនាន់ក្រោយ និងទុកជាឯកសារសម្រាប់ការស្រាវជ្រាវបន្ថែម។

៦. វិធីសាស្ត្រនៃការសិក្សាស្រាវជ្រាវ

វិធីសាស្ត្រស្រាវជ្រាវនេះ គឺធ្វើឡើងតាមរបៀបស្វែងរក ពន្យល់ បកស្រាយ ប្រើឯកសារពាក់ព័ន្ធជាជំនួយក្នុងការបកស្រាយ និងបញ្ជាក់អត្ថន័យឱ្យបានកាន់តែច្បាស់។

១. ប្រមូលទិន្នន័យ

- មហាសន្និបាតអង្គការសហប្រជាជាតិ ឆ្នាំ១៩៧១
- អនុសញ្ញា ម៉ុងតេវីដេអូ ស្តីពី សិទ្ធិ និង ករណីយកិច្ចរបស់រដ្ឋនានា ឆ្នាំ១៩៣៣
- គេហទំព័រ របស់ប្រទេសចិន និងកោះតៃវ៉ាន់
- គេហទំព័រនានា របស់សារព័ត៌មានពិភពលោក
- ឯកសារផ្សេងៗទៀតបានមកពីការស្វែងរកបានតាមប្រព័ន្ធអ៊ីនធើណែត បណ្ណាល័យ សៀវភៅមេរៀន និងឯកសារពាក់ព័ន្ធនានា។

២. ការបកស្រាយ និង វិភាគ

បន្ទាប់ពីឆ្លងកាត់ប្រមូលទិន្នន័យរួចហើយ ក្រុមយើងខ្ញុំបានធ្វើការជ្រើសរើសទិន្នន័យដែលពាក់ព័ន្ធខ្លឹមសារសំខាន់មកវែកញែកពិភាក្សាបកស្រាយ លើអត្ថន័យនៃការទទួលស្គាល់រដ្ឋ ជាពិសេសក្នុងករណីសិក្សា អំពីបញ្ហាកោះតៃវ៉ាន់។

៧. វេទនាសម្ព័ន្ធនៃការស្រាវជ្រាវ

អត្ថបទសារណាក្រោមប្រធានបទ៖ «ការទទួលស្គាល់រដ្ឋ៖ ករណីកោះតៃវ៉ាន់» ត្រូវបានបែងចែកចេញជា បីជំពូកដែលក្នុងនោះ រួមមាន សេចក្តីផ្តើម ជាផ្នែកដំបូងគេដែលរៀបរាប់អំពីលំនាំបញ្ហា ចំណោទបញ្ហា គោលបំណងនៃការស្រាវជ្រាវ សារៈសំខាន់នៃការស្រាវជ្រាវព្រមទាំងវិធីសាស្ត្រនៃការស្រាវជ្រាវ។ ចំពោះជំពូកទី១ សញ្ញាណទូទៅនៃរដ្ឋដែលនឹងធ្វើការសិក្សាអំពីនិយមន័យនៃរដ្ឋ និង ធាតុផ្សំនៃរដ្ឋ។ ចំណែកជំពូកទី២ ការទទួលស្គាល់រដ្ឋ នៅក្នុងនីតិអន្តរជាតិ ក្នុងជំពូកនេះផងដែរ យើងនឹងធ្វើការសិក្សាអំពី និយមន័យ និងមូលហេតុនៃការទទួលស្គាល់ប្រភេទ និងទម្រង់នៃការទទួលស្គាល់ និង ផលវិបាកផ្នែកផ្លូវច្បាប់នៃការទទួលស្គាល់រដ្ឋ។ ហើយជំពូកចុងក្រោយដែលជាជំពូកទី៣ ករណីកោះតៃវ៉ាន់ នៅជំពូកចុងក្រោយនេះ យើងនឹងសិក្សាអំពីស្ថានភាពជាក់ស្តែងនៃកោះតៃវ៉ាន់ ការសិក្សាវិភាគ ពីចំណុចវិជ្ជមាន និងចំណុចអវិជ្ជមាន ហើយផ្នែកចុងក្រោយនៃសារណាបញ្ចប់ការសិក្សារបស់

យើងខ្ញុំនឹងបញ្ចប់ដោយមាន សេចក្តីសន្និដ្ឋាន និងអនុសាសន៍។ ផ្នែកចុងក្រោយនៃសារណា គឺជាការ សរុបសេចក្តីបញ្ចូល ខ្លឹមសារឡើងវិញនូវលទ្ធផលដែលបានធ្វើការស្រាវជ្រាវ និងផ្តល់នូវអនុសាសន៍មួយចំនួន សម្រាប់ជាដំណោះស្រាយបញ្ហាដែលបានកើតឡើងចំពោះការទទួលស្គាល់រដ្ឋ ជាពិសេសក្នុងករណីកោះតែវ៉ាន់។

ជំពូកទី១

សញ្ញាណទូទៅនៃរដ្ឋ

ជំពូកទី១

សញ្ញាណទូទៅនៃរដ្ឋ

១.១ និយមន័យនៃរដ្ឋ

រដ្ឋ គឺជាអង្គភាពមួយដែលមានទឹកដីជាក់លាក់ និងប្រជាពលរដ្ឋរស់នៅ ជាអចិន្ត្រៃយ៍ ហើយស្ថិតនៅក្រោមការគ្រប់គ្រងរបស់រដ្ឋាភិបាលខ្លួន ដែលមានសមត្ថកិច្ចធ្វើទំនាក់ទំនងជាធម្មតា ជាមួយរដ្ឋដទៃ។⁵

តាមច្បាប់អន្តរជាតិ រដ្ឋ គឺជាអង្គភាពមួយដែលមានទឹកដីជាក់លាក់ និង ប្រជាពលរដ្ឋអចិន្ត្រៃយ៍ ស្ថិតនៅក្រោមការគ្រប់គ្រងរបស់រដ្ឋាភិបាលរបស់ខ្លួនហើយដែលមានសមត្ថកិច្ច ធ្វើទំនាក់ទំនងជាធម្មតាជាមួយរដ្ឋដទៃទៀត។⁶

រដ្ឋ គឺជាក្រុមមនុស្សដឹកនាំដោយអង្គការនយោបាយតែមួយដូចគ្នា និង ស្ថិតក្នុងលំហមួយជាក់លាក់។⁷ តាមន័យនយោបាយសង្គម ពាក្យថារដ្ឋ គឺសំដៅទៅសង្គមសរុបទាំងមូលដែលបែងចែកជាច្រើនស្រឡះ រវាងអ្នកដឹកនាំ និងអ្នកដែលត្រូវគេដឹកនាំហើយមានអំណាចនយោបាយមួយពិតប្រាកដ។

នៅក្នុងន័យវិទ្យាសាស្ត្ររដ្ឋបាលពាក្យថារដ្ឋ សំដៅទៅលើអំណាចដែលស្ថិតនៅលើអង្គការ គឺអង្គការនយោបាយអង្គការរដ្ឋបាល និងអង្គការតុលាការ។⁸ នៅក្នុងន័យសង្គមស៊ីវិលរដ្ឋ គឺជាមនុស្ស មួយក្រុមដែល បានរស់នៅ ជាប់លាប់លើទឹកដីមួយក្រោមការគ្រប់គ្រងផ្តាច់មុខ និងទៀងទាត់របស់រដ្ឋាភិបាលមួយ។

ជាការពិតណាស់ រដ្ឋជាប្រធាននៃច្បាប់អន្តរជាតិ⁹ ហើយលើសពីនេះទៅទៀតវាក៏ជាប្រធានពេញលេញមួយផងដែរនេះមានន័យថារដ្ឋ មានសិទ្ធិ និងកាតព្វកិច្ច¹⁰។ តាមពិតទៅសិទ្ធិ និងកាតព្វកិច្ចរបស់រដ្ឋ ពុំមែនមានតែក្នុងសៀវភៅនេះប៉ុណ្ណោះទេ សូម្បីអ្នកស្រាវជ្រាវ ពិសេសទៅទៀតនោះនៅក្នុងអនុសញ្ញាម៉ុងតេវីដេអូស្ត្រីពីសិទ្ធិ និងករណីកិច្ចរបស់រដ្ឋ ក៏បានលើកឡើងអំពីសិទ្ធិ និងកាតព្វកិច្ចរបស់រដ្ឋ ផងដែរ។¹¹ មិនត្រឹមតែប៉ុណ្ណោះ រដ្ឋ អាចធ្វើ

⁵ ជុំ អ៊ុម, ទំនាក់ទំនងអន្តរជាតិ, បោះពុម្ពលើកទី២(ភ្នំពេញ ៖ រោងពុម្ពផ្សាយដើម, ២០១១), ១០៨

⁶ ចាន់ ធាវិទូ, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០១៥), ១២

⁷ ចាន់ ធាវិទូ, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០១៥), ១២

⁸ ចាន់ ធាវិទូ, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០១៥), ១២

⁹ William, Perspectives on IL, *supra* note 1, p.35; Budislav Vukas and Trpimir M. Sobic, International Law: New Actors, New Concepts Continuing Dilemmas (Budislav, IL), 2010, p. 381, លោកបណ្ឌិត មាស ប៊ូរ៉ា, នីតិអន្តរជាតិសាធារណៈ, (ភ្នំពេញ ២០១៣), ទំព័រ ១៣។

¹⁰ មាស ប៊ូរ៉ា, នីតិអន្តរជាតិសាធារណៈ, (ភ្នំពេញ ២០១៣), ទំព័រ១៣

¹¹ គេហទំព័រ៖ <https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml> ចូលមើលចុងក្រោយនៅថ្ងៃទី២២ ខែធ្នូ ឆ្នាំ២០២២។

បណ្តឹងទៅតុលាការអន្តរជាតិ និងមានឋានៈជានីតិបុគ្គលអន្តរជាតិ¹² (International Personality) តាមរយៈនេះ រដ្ឋក៏អាចចរចា ធ្វើការចុះសន្ធិសញ្ញានានាជាមួយប្រធានដទៃទៀតរបស់ច្បាប់អន្តរជាតិ ដូចជាអង្គការអន្តរជាតិ ផងដែរ។ តាមច្បាប់អន្តរជាតិ រដ្ឋគឺជាអង្គមួយដែលមានទឹកដីជាក់លាក់ ប្រជាពលរដ្ឋអចិន្ត្រៃយ៍ មានរដ្ឋាភិបាលគ្រប់គ្រង និងមានសមត្ថភាពចុះកិច្ចព្រមព្រៀងក្នុងទំនាក់ទំនងជាផ្លូវការជាមួយអង្គដទៃទៀតបាន។

នៅក្នុង អនុសញ្ញាម៉ុងតេវីដេអូ ស្តីអំពីសិទ្ធិនិងករណីយកិច្ចរបស់រដ្ឋ ១៩៣៣ បានលើកឡើងនៅចំណុចដ៏សំខាន់បំផុតរបស់អនុសញ្ញានេះគឺ រដ្ឋក្នុងឋានៈជានីតិបុគ្គលនៃនីតិអន្តរជាតិ ត្រូវមានលក្ខណៈវិនិច្ឆ័យដូចតទៅ៖

ក. ប្រជាពលរដ្ឋអចិន្ត្រៃយ៍

ខ. ទឹកដីមួយជាក់លាក់

គ. រដ្ឋាភិបាល

ឃ. សមត្ថភាពក្នុងការចូលទៅក្នុងទំនាក់ទំនងជាមួយរដ្ឋដទៃ

ប្រភេទផ្សេងៗនៃរដ្ឋមានដូចខាងក្រោម៖¹³

- **រដ្ឋឯករាជ្យ** គឺជារដ្ឋមិនស្ថិតនៅក្រោមការបង្គាប់បញ្ជា ឬ ការគ្រប់គ្រង របស់ រដ្ឋផ្សេងទៀត។
- **រដ្ឋចំណុះ** គឺជារដ្ឋដែលស្ថិតនៅក្រោមការគ្រប់គ្រងរបស់រដ្ឋមួយផ្សេងទៀត ហើយឯករាជ្យរបស់រដ្ឋនេះមានកំណត់។
- **រដ្ឋអាណាព្យាបាល** គឺជារដ្ឋដែលស្ថិតក្រោមកិច្ចការពាររបស់រដ្ឋមួយទៀតដែលជាទូទៅច្រើន ជាប្រទេស មហាអំណាច។
- **រដ្ឋអព្យាក្រឹត្យ** គឺជារដ្ឋដែលមិនចងសម្ព័ន្ធមិត្តជាមួយប្រជាជាតិមួយ (ប្រជាសេរី ឬ ប្រជាសង្គមនិយម) រដ្ឋអព្យាក្រឹត្យ បើមានគេវាយប្រហារមកលើប្រទេសរបស់ខ្លួនប្រទេសផ្សេងៗ ឱ្យមកជួយខ្លួនបាន។
- **រដ្ឋអព្យាក្រឹត្យគឺ៖**
 - មិនចូលរួមធ្វើសង្គ្រាម
 - មិនចូលរួមជាមួយប្រទេសណាទាំងអស់ (រាប់អានស្មើគ្នា)
 - មិនចុះហត្ថលេខាចូលជាបក្សសម្ព័ន្ធនាមួយឡើយ
 - ត្រូវគោរពអព្យាក្រឹត្យភាពជានិច្ច។

គោលដៅនៃនយោបាយការបរទេសរបស់រដ្ឋគឺ

១- សន្តិសុខជាតិ (National security)

២- ស្វ័យភាពដឹកនាំជាតិ (National Autonomy)

៣- សុខុមាលភាពប្រជាពលរដ្ឋ (People's welfare)

¹² Budislav, IL, *supra* note 23, p. 99.

¹³ បាន ជាវិទូ, *ទំនាក់ទំនងអន្តរជាតិ*, (ភ្នំពេញ ២០១៥), ទំព័រទី ១

៤- តួនាទី ឋានៈ និង កិត្យានុភាពជាតិ (Status and Prestige)

ក្នុងលក្ខណវិនិច្ឆ័យប្រកាសកំណត់អំពីរដ្ឋ ក៏ដូចជាធាតុផ្សំរបស់រដ្ឋក្តី នឹងសិក្សាបន្ថែមនូវចំណុចទាំង៣ ខាងលើនេះ ក្នុងបរិបទនៃស្ថានភាពកោះតែវ៉ាន់បច្ចុប្បន្ន និងលើកយកទទួលក្នុងករណីសិក្សានៃកោះតែវ៉ាន់ ជាពិសេសទទួលក្នុងរដ្ឋឡើងវិញជាឧទាហរណ៍បន្ថែមដូចខាងក្រោម៖

១.២ ធាតុផ្សំនៃរដ្ឋ

១.២.១ ប្រជាពលរដ្ឋអចិន្ត្រៃយ៍

ប្រជាពលរដ្ឋ គឺជាធាតុចាំបាច់សម្រាប់រដ្ឋ ក្នុងបញ្ហាប្រជាពលរដ្ឋ កត្តាសំខាន់គឺបញ្ហាសញ្ជាតិ។¹⁴ សញ្ជាតិមានន័យថា ជាទំនាក់ទំនងខាងផ្លូវច្បាប់ដែលកើតឡើងរវាងបុគ្គល និង ជាតិ។ សញ្ជាតិ គឺជាចំណង ខាងផ្លូវច្បាប់ដែលបានរួមបញ្ចូលបុគ្គលម្នាក់ទៅនឹងរដ្ឋមួយ។

ដើម្បីទទួលបានសញ្ជាតិមួយគេត្រូវបំពេញនូវលក្ខខណ្ឌមួយចំនួនដូចខាងក្រោម៖¹⁵

១-តាមរយៈកំណើត (By birth) មានន័យថាបុគ្គលម្នាក់អាចទទួលបាននូវសញ្ជាតិរដ្ឋមួយជាទីកន្លែង ដែលខ្លួនបានកើត។

២- តាមរយៈសញ្ជាតិបន្ថែម (Naturalization) នៅក្នុងនីតិអន្តរជាតិសាធារណៈ សញ្ជាតិបន្ថែម គឺ ជាការចូលសញ្ជាតិតាមរយៈ ការសុំពីសាមីខ្លួន នូវសញ្ជាតិមួយថ្មីទៀតផ្សេងពីសញ្ជាតិដើម ប៉ុន្តែដើម្បីបាន សញ្ជាតិថ្មី សាមីជនត្រូវបោះបង់សញ្ជាតិដើមរបស់ខ្លួន។

៣- តាមរយៈការតភ្ជាប់ (By resumption) នៅពេលខ្លះ បុគ្គលអាចបាត់បង់សញ្ជាតិរបស់ខ្លួន ដោយមូលហេតុ មួយចំនួន ប៉ុន្តែក៏អាចបានសញ្ជាតិមកវិញតាមរយៈការតភ្ជាប់។

៤- តាមរយៈការដាក់ឱ្យនៅក្រោមអំណាច (By subjugation) កាលណារដ្ឋមួយចាញ់សង្គ្រាមរដ្ឋមួយទៀត ពលរដ្ឋនៃរដ្ឋចាញ់សង្គ្រាម ត្រូវស្ថិតនៅក្រោមអំណាច រដ្ឋឈ្នះសង្គ្រាមហើយអាចនឹងទទួលបានសញ្ជាតិ នៃរដ្ឋនោះ (មាននៅដើមសតវត្សរ៍ទី១៨, ១៩)។

ការបាត់បង់សញ្ជាតិភាគច្រើនដំណើរការទៅតាមលក្ខខណ្ឌដូចខាងក្រោម៖¹⁶

¹⁴ ចាន់ ធាវិទូ, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០១៥), ទំព័រទី ២៣

¹⁵ ចាន់ ធាវិទូ, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០១៥), ទំព័រទី ២៣

¹⁶ ចាន់ ធាវិទូ, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០១៥), ទំព័រទី ២៣

ក- តាមរយៈការលាវៃលង (By release) ច្បាប់រដ្ឋខ្លះ ផ្តល់ឱ្យពលរដ្ឋរបស់ខ្លួនបាត់បង់សញ្ជាតិតាមរយៈការលាវៃលង ឬ តាមរយៈពាក្យស្នើសុំ។

ខ- តាមរយៈការដកហូត (By deprivation) ច្បាប់រដ្ឋមួយចំនួន អាចដកហូតសញ្ជាតិពលរដ្ឋដើមរបស់ខ្លួន ឬ ពលរដ្ឋជាតិដទៃ ក្នុងករណីដែល មិនគោរពច្បាប់ទំលាប់រដ្ឋនោះ។

គ- ការស្នាក់នៅបរទេសយូរអង្វែង (Long residence abroad) ជាទូទៅការបាត់បង់សញ្ជាតិ គឺបណ្តាលមកពីការស្នាក់នៅបរទេសយូរអង្វែង។

ឃ- តាមរយៈការបោះបង់សញ្ជាតិ (By renunciation) បុគ្គលអាចបោះបង់ចោលសញ្ជាតិរបស់ខ្លួន ដោយយោងទៅតាមតម្រូវការ កាលៈទេសៈបង្ខំ។ ប៉ុន្តែក្នុង លក្ខខណ្ឌនេះ បុគ្គលនោះត្រូវជ្រើសរើសសញ្ជាតិណាមួយដើម្បីជំនួសសញ្ជាតិដើមរបស់ខ្លួន។

តាមពិតទៅពាក្យថា «ប្រជាជន» និង «ប្រជាពលរដ្ឋ» តាមទស្សនវិទ្យារាំងបានបញ្ជាក់ថា មានអត្ថន័យដូចគ្នា អាចប្រើមួយណាក៏បាន។ ប្រជាពលរដ្ឋ ត្រូវប្រមូលផ្តុំដោយបុគ្គលទាំងឡាយ ដែលស្ថិតនៅក្រោមអំណាចរបស់រដ្ឋក្រោមម្លប់ឆត្រនៃច្បាប់រដ្ឋ។ ស្របគ្នានោះផងដែរ ក្នុងវចនានុក្រមសម្តេចសង្ឃរាជជួនណាត ក៏បានសរសេរថា «ប្រជាពលរដ្ឋ ពលរដ្ឋគឺប្រជាជន ឬប្រជាជនដែលជាពលរដ្ឋ»។ ក៏ប៉ុន្តែបើយើងមើលទៅក្នុង *អនុសញ្ញាស្តីពីសិទ្ធិ និងករណីយកិច្ចរបស់រដ្ឋ* បានចែងពីពាក្យ ប្រជាពលរដ្ឋ និងប្រជាជន ដែលក្នុងន័យច្បាប់ គឺមានចិត្តខុសគ្នា។ ពាក្យថា «ប្រជាពលរដ្ឋ» សំដៅទៅលើជនទាំងឡាយណា ដែលរស់នៅក្រោមយុត្តាធិការរបស់រដ្ឋមួយ ហើយដែលមានសិទ្ធិបោះឆ្នោតមានសិទ្ធិឈរឈ្មោះឱ្យគេបោះឆ្នោត និង មានសិទ្ធិនិងកាតព្វកិច្ចនៅចំពោះមុខច្បាប់។ អនុសញ្ញាស្តីពីសិទ្ធិនិងករណីយកិច្ចរបស់រដ្ឋ ចែងថា រដ្ឋក្នុងឋានៈជានីតិអន្តរជាតិសាធារណៈ ត្រូវមានពលរដ្ឋអចិន្ត្រៃយ៍ មានន័យថា ប្រជាពលរដ្ឋនោះបានរស់នៅលើទឹកដីមួយដែលជាក់លាក់ ដែលទឹកដីគឺមានព្រំដែន និងការគ្រប់គ្រងតាមផ្លូវច្បាប់ពីសំណាក់រដ្ឋមួយ។ ប្រជាពលរដ្ឋ គឺជាសហគមន៍ ជាតិសាសន៍មួយ ដែលមិនត្រឹមតែស្ថិតនៅក្រោមច្បាប់របស់រដ្ឋ ប៉ុន្តែថែមទាំងត្រូវផ្សាភ្ជាប់នឹងកត្តាជាច្រើនទៀត ដូចជា កត្តាប្រវត្តិសាស្ត្រ កត្តាភាសា កត្តាទ្រឹស្តីមនោគមវិជ្ជា ជាពិសេសលទ្ធិជាតិនិយម កត្តាវប្បធម៌ កត្តាសាសនា ជាដើម។ ជាការពិតណាស់ រដ្ឋពុំអាចមានអត្ថិភាពបាននោះឡើយ ប្រសិនបើគ្មានប្រជាពលរដ្ឋពិតប្រាកដ ឬជាប្រជាពលរដ្ឋដែលពុំបានផ្សាភ្ជាប់នឹងកត្តាទាំងអស់ខាងលើនេះ។ តាមពិតទៅនៅក្នុងរដ្ឋមួយ គេពុំអាចកំណត់បាននូវចំនួនប្រជាពលរដ្ឋយ៉ាងច្បាស់ថាកម្រិតមនុស្សប៉ុន្មាននាក់ ទើបអាចកំណត់បានថាជារដ្ឋមួយនោះ ពុំទាន់អាចកំណត់បានឡើយ ហើយក៏ពុំមានខ្នាតអ្វីជាក់លាក់មកកំណត់ ឬវាស់ចំនួនប្រជាពលរដ្ឋ ឬប្រជាពលរដ្ឋរៀបរៀងផ្ទៃដីនៃដែនដីរដ្ឋមួយបានដែរ។

ប៉ុន្តែទោះបីយ៉ាងណាក៏ដោយ ក៏គេត្រូវកំណត់ឱ្យបាននូវកត្តាជាច្រើន រួមផ្សំនឹងសញ្ញាតិដើមរបស់ប្រជាពលរដ្ឋ មួយដែលរស់នៅក្នុងរដ្ឋនោះយ៉ាងច្បាស់។ បើមានតែប្រជាជន ឬប្រជាពលរដ្ឋ តែប្រជាពលរដ្ឋនោះមានសញ្ញាតិ ផ្សេងខុសពីជាតិសាសន៍ ដែលខ្លួនបានរស់នៅនោះគេពុំចាត់ទុកថាគាត់ជាប្រជាពលរដ្ឋនៃរដ្ឋមួយនោះឡើយ ហើយរដ្ឋនោះក៏ពុំអាចជាម្ចាស់មានលក្ខណៈពេញលេញនោះឡើយ ដោយហេតុថាមានត្រឹមតែទឹកដីហើយពុំមាន មនុស្ស ឬហៅថាជាប្រជាពលរដ្ឋរស់នៅសោះនោះឡើយ។ អាចបកស្រាយបានមួយបែបទៀតថា ប្រសិនបើ ចំនួននៃប្រជាពលរដ្ឋរបស់ប្រទេសមួយមានចំនួនតិចតួចខ្លាំងពេក អាចធ្វើឱ្យការដំណើរការប្រទេសនោះនឹងជួប ប្រទះការលំបាក ពីព្រោះប្រឈមនឹងបញ្ហាកង្វះកម្លាំង ឬអាចជាកង្វះធនធានមនុស្សគ្រប់គ្រងដើម្បីឱ្យមាននូវ ដំណើរការសេវារបស់រដ្ឋមួយ។

តាមន័យទូលាយ ប្រជាពលរដ្ឋ ត្រូវរួមផ្សំឡើងដោយជនជាតិរបស់រដ្ឋខ្លួនផង និងជនបរទេសដែលកំពុង ស្ថិតនៅលើទឹកដីរបស់ខ្លួនផង។ ជនជាតិរបស់រដ្ឋមានន័យថា ជាជនទាំងឡាយ (រូបវន្តបុគ្គល និងនីតិបុគ្គល) ដែលមានសញ្ញាតិរបស់រដ្ឋនោះ។ ជនទាំងនោះគឺជាទាំងអ្នកដែលទៅរស់នៅឯបរទេស តែពួកគាត់នៅរក្សាទុក សញ្ញាតិប្រទេសដើមរបស់ពួកគាត់។ ចំណែកជនបរទេស គឺជាជនទាំងឡាយណា ដែលរស់នៅលើទឹកដី ប្រទេសណាមួយ ដែលខ្លួនគ្មានសញ្ញាតិ ហើយគាត់មានចំណងសញ្ញាតិជាមួយនឹងរដ្ឋដទៃណាមួយទៅវិញ។

ប្រជាពលរដ្ឋនៃប្រទេសមួយ តាមន័យចង្អៀតសំដៅលើបុគ្គលទាំងឡាយណា ដែលមានចំណងគតិយុត្ត ជាមួយនឹងរដ្ឋនោះ (គឺសំដៅលើសញ្ញាតិតែម្តង)។ គឺប្រជាពលរដ្ឋក្នុងន័យនេះហើយ ដែលគេចាត់ជាធាតុផ្សំនៃរដ្ឋ។

ជាការពិគណៈ ក្នុងស្ថានភាពជាក់ស្តែងរបស់កោះតៃវ៉ាន់គឺពិតជាមានសញ្ញាតិតៃវ៉ាន់ ក៏ដូចជាការប្រើប្រាស់ ជាលិខិតឆ្លងដែនរបស់តៃវ៉ាន់ ហើយក៏មាននូវច្បាប់មួយចំនួនទាក់ទងនឹងសញ្ញាតិ ក៏ដូចជាលិខិតឆ្លងដែនតៃវ៉ាន់ ដែលមានកំណត់ក្នុងច្បាប់សញ្ញាតិ (Nationality Act) នៃកោះតៃវ៉ាន់ ក្នុងឆ្នាំ២០២១។¹⁷

១.២.២ ទឹកដីមួយជាកំណត់

ទឹកដី រួមផ្សំដោយលំហសំខាន់ៗបី គឺ៖ ¹⁸

- លំហដែនគោក (Territorial space)
- លំហដែនទឹក (Maritime space)
- លំហដែនអាកាស (Air space)

ប្រសិនបើគ្មានទឹកដីទេ គេមិនអាចហៅថា រដ្ឋបានឡើយ ពីព្រោះទឹកដីគឺជាលំហមួយ ដើម្បីឱ្យរដ្ឋ ដំណើរការ សកម្មភាព និងអនុវត្តនូវអំណាចរបស់ខ្លួន ទោះបីទឹកដីតូច ឬ ធំ ក៏ដោយ។

¹⁷ គេបំភ្លឺពី៖ <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0030001> ចូលមើលចុងក្រោយនៅថ្ងៃទី២២ ខែធ្នូ ឆ្នាំ ២០២២។

¹⁸ ចាន់ ជាតិ, *ទំនាក់ទំនងអន្តរជាតិ*, (ភ្នំពេញ ២០១៥), ទំព័រទី ១៨

លំហដែនគោក គឺស្ថិតនៅក្រោមការគ្រប់គ្រងរបស់រដ្ឋមួយ ហើយផ្សារភ្ជាប់ទៅនឹង បញ្ហាសំខាន់ៗជា យុទ្ធសាស្ត្រដូចជា៖

- ជាឧបករណ៍ចំណងភ្ជាប់ទៅនឹងប្រជាពលរដ្ឋ
- បញ្ហាសន្តិសុខជាតិ
- ការការពារអន្តរាគមន៍ពីខាងក្រៅ
- បញ្ហាអត្តសញ្ញាណជាតិ ការកំណត់ព្រំដែនគោក

ដែនដី គឺជាលំហមួយសម្រាប់ឱ្យរដ្ឋធ្វើសកម្មភាពនៃអំណាចរបស់រដ្ឋនៅក្នុងអធិបតេយ្យពេញលេញស្រប តាមនីតិអន្តរជាតិ។¹⁹ ដូច្នេះដើម្បីកំណត់អំពីអធិបតេយ្យរបស់រដ្ឋ ចាំបាច់ណាស់ត្រូវមានព្រំដែន ឬព្រំប្រទល់។

តាមពិតទៅទឹកដីមួយជាកំណត់ ឬដែនដីមួយជាកំណត់ គេពុំអាចកំណត់វាបានថាមានទំហំតូច ឬធំឱ្យ ប្រាកដទេ ក្នុងន័យនេះចង់សម្តែងថា ទឹកដីមួយទោះតូច ឬធំក្តី ត្រូវកំណត់ដោយព្រំប្រទល់ ឬព្រំដែន ទោះបីជាព្រំដែន ឬព្រំប្រទល់ ទោះវាជាព្រំប្រទល់ដែនដីគោកក្តី ឬដែនដីទឹកក៏ដោយ។ ដើម្បីយល់អត្ថន័យនៃឃ្លាខាងលើនេះ កាន់តែច្បាស់ សូមលើកយកករណី បុរីវ៉ាទីកង់ (Vatican City) ជាប្រទេសមួយដែលមានទំហំផ្ទៃដីត្រឹមតែ 0.49 គីឡូម៉ែត្រការ៉េ (0.19 ម៉ាយការ៉េ)²⁰ និងជាប្រទេសមួយដែលតូចបំផុតនៅក្នុងពិភពលោក (សង្គមអន្តរជាតិបាន ទទួលស្គាល់បុរីវ៉ាទីកង់ក្នុងឋានៈដូចជាជារដ្ឋ)។

លើសពីនេះដើម្បីបង្កើតបានជារដ្ឋមួយ ក្នុងច្បាប់អន្តរជាតិ ពុំបានទាមទារនូវគ្រប់ចំណុចជាក់លាក់ ១០០ភាគរយ នៃព្រំដែននោះឡើយ។ ទោះបីយ៉ាងណាច្បាប់អន្តរជាតិក៏មានការកំណត់ជាក់លាក់អំពីខ្នាត ឬ របៀបនៃការកំណត់ច្បាស់លាស់អំពី ដែនដី ទោះបីជា ក្រោមសមុទ្រ លើដី ឬលើអាកាសក៏ដោយ។

ដែនដី រាប់បញ្ចូលនូវដីរបស់ស្ថានទូតបរទេស ដែលតាំងនៅក្នុងរដ្ឋនោះ។ ដីរបស់ស្ថានទូត ត្រូវបានប្រគល់ ដោយរដ្ឋ ផ្អែកទៅតាមគោលការណ៍ទៅវិញទៅមកសម្រាប់ប្រតិបត្តិការទូត ក្នុងរយៈពេលយូរអង្វែងណាមួយ តែវា នៅតែជាដីរបស់រដ្ឋដែលប្រគល់នោះ។ គេពុំគួរមានការយល់ច្រឡំថា ដីនោះជាដីរបស់រដ្ឋដាក់ទូតទេ។ រដ្ឋដែល ទូតតាំងនៅ មិនហ៊ានចូលក្នុងទូត ដោយគ្មានការអនុញ្ញាត ដោយសារខ្លួនមានកាតព្វកិច្ចតាមច្បាប់អន្តរជាតិ ឱ្យ គោរពនូវអភ័យឯកសិទ្ធិទូត។

¹⁹ ពៅ សារឿន, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០០៩), ទំព័រទី ៩

²⁰ គេហទំព័រ៖ <https://vatican-city-tickets.com/km/facts-about-the-vatican-city/> ចូលមើលចុងក្រោយ នៅថ្ងៃទី៣១ ខែឧសភា ឆ្នាំ ២០២៣។

- អនុសញ្ញា Warsaw (Vasovie) ១៩២៩
- អនុសញ្ញា Chicago ១៩៤៤។

អនុសញ្ញាទាំងបីនេះបាននិយាយស្តីពីការគ្រប់គ្រងដែនអាកាសហើយដែលដែនអាកាសចែកជាពីរគឺ ដែនអាកាសរបស់រដ្ឋ និងដែនអាកាសអន្តរជាតិ។ ដែនអាកាសអន្តរជាតិគ្រប់គ្រងដោយអង្គការស៊ីវិលអន្តរជាតិ International Civil Aviation Organization (ICAO)។ អង្គការ នេះបង្កើតឡើងនៅឆ្នាំ ១៩៤៧ តាមរយៈអនុសញ្ញា Chicago មានទីស្នាក់ការនៅទីក្រុង ម៉ុងរ៉េអាល់ ប្រទេសកាណាដា។ លំហដែនអាកាស (Air space) គឺជាកន្លែងដែលមានសេរីភាពលើដែនអាកាសទាំងអស់គ្នា ប៉ុន្តែបើស្ថិតនៅលើកម្ពស់មួយកំណត់ វាក្លាយជាលំហអាកាសអន្តរជាតិ។²³ ជាទូទៅរដ្ឋនីមួយៗ មានសិទ្ធិរក្សាអធិបតេយ្យភាពទឹកដីរបស់ខ្លួនទាំងដែនទឹក ដែនអាកាស និងដែនគោក។

អនុសញ្ញាទីក្រុងប៉ារីស ស្តីពីការហោះហើររាហ័សអាកាសឆ្នាំ ១៩១៩ (Aerial Navigation) ក្នុងនោះមានសំខាន់ៗដូចតទៅ៖

- ក- ស្របតាមអនុសញ្ញានេះ រដ្ឋនីមួយៗមានសិទ្ធិពេញលេញលើដែនអាកាសរបស់ខ្លួន។
- ខ- ក្នុងពេលមានសន្តិភាព យន្តហោះរបស់រដ្ឋមួយមិនអាចហោះឆ្លងកាត់រដ្ឋមួយទៀតបានទេ ក្នុងករណីដែលគ្មានកិច្ចព្រមព្រៀងជាមួយគ្នា។
- គ- ការហោះហើរឆ្លងកាត់របស់រដ្ឋនីមួយៗ ត្រូវធានាឱ្យបាននូវសុវត្ថិភាព។

សិទ្ធិក្នុងលំហដែនអាកាស៖²⁴

- រដ្ឋមានយុត្តាធិការផ្តាច់មុខលើលំហដែនអាកាសរបស់ខ្លួន។
- យន្តហោះមិនមានសិទ្ធិហោះឆ្លងកាត់។ ការប្រើប្រាស់ដែនអាកាសទាមទារឱ្យមានការយល់ព្រម។
- យន្តហោះស្ថិតក្នុងលំហអាកាសអន្តរជាតិ ត្រូវស្ថិតនៅក្រោមយុត្តាធិការជាតិរបស់ខ្លួន (ការពិនិត្យមើលទង់ជាតិ)។
- រដ្ឋមិនអាចប្រើប្រាស់ឧបករណ៍មើលពីលើមេឃយានអវកាសអាចប្រើប្រាស់បាន។

ពាក់ព័ន្ធកិច្ចការសមុទ្រ គឺសហគមន៍អន្តរជាតិបានបើកសន្និសីទមួយសម្រាប់ការរៀបចំច្បាប់សមុទ្រគឺសន្និសីទសហប្រជាជាតិស្តីពីនីតិសមុទ្រដែលភាសាអង់គ្លេសហៅថា UNCLOS (United Nations Conference on the Law of the Sea) នៅទីក្រុងស៊ីណៃវ ឆ្នាំ១៩៥៨។²⁵ UNCLOS II ដំណើរការ ក្នុងឆ្នាំ ១៩៦០

²³ ចាន់ ធារិទ្ធ, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០១៥), ទំព័រទី ២១

²⁴ ចាន់ ធារិទ្ធ, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០១៥), ទំព័រទី ២២

²⁵ ចាន់ ធារិទ្ធ, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០១៥), ទំព័រទី ១៩

UNCLOS III ដំណើរការ ក្នុងឆ្នាំ១៩៧៣ UNCLOS IV ដំណើរការក្នុងឆ្នាំ ១៩៨២ នៅទីក្រុង Montego Bay ប្រទេស Jamaica។

នៅក្នុងអនុសញ្ញាអង្គការសហប្រជាជាតិស្តីពីនីតិសមុទ្រទីមួយ គេបានចុះហត្ថលេខា និង អនុម័តទៅលើ អនុសញ្ញាចំនួនបួនទៀតគឺ :

ក- អនុសញ្ញាស្តីពីដែនសមុទ្រ និង តំបន់តភ្ជាប់ (Convention on the Territorial Sea and Contiguous zone)

ខ- អនុសញ្ញាស្តីពីតំបន់នាយសមុទ្រ/សមុទ្រអន្តរជាតិ (Convention on the High Sea)

គ- អនុសញ្ញាស្តីពីការនេសាទ និង ការរក្សាទុកនូវធនធានធម្មជាតិមានជីវិត (Convention on Fishing and Conservation of Living Resources)

ឃ- អនុសញ្ញាស្តីពីតំបន់ខ្ពង់រាបបាតសមុទ្រ (Convention on the Continental Shelf)

អនុម័តអនុសញ្ញាទីក្រុង Montego Bay ប្រទេស Jamaica ដែលមានប្រទេសចំនួន១២០ បានចូលរួម បានកំណត់ដែនសមុទ្ររដ្ឋនីមួយៗ ដូចតទៅ៖²⁶

- តំបន់ដែនទឹកក្នុង (internal waters)តំបន់នេះ រាប់បញ្ចូលនូវឆ្នេរសមុទ្ររបស់រដ្ឋ កំពង់ផែដែរ សមុទ្រ ដែលជាអធិបតេយ្យភាពរបស់រដ្ឋនីមួយៗ។ នាវាបរទេសរាប់ទាំងនាវាដឹកអ្នកដំណើរ បរទេសមិនអាចចូលក្នុងតំបន់នេះបានទេប្រសិនបើពុំមានការអនុញ្ញាតពីអាជ្ញធរនៃរដ្ឋនេះ។
- តំបន់សមុទ្រដែនដី (Territorial Sea) មានចម្ងាយ១២ ម៉ាយល៍ ពីខ្សែបន្ទាត់មូលដ្ឋាន។
- តំបន់តភ្ជាប់ (Contiguous zone) មានចម្ងាយ ២៤ម៉ាយល៍ ពីខ្សែមូលដ្ឋាន។
- តំបន់ខ្ពង់រាបបាតសមុទ្រ (Continental shelf) មានចម្ងាយ ២០០ ម៉ាយល៍ ពីខ្សែបន្ទាត់មូលដ្ឋាន។
- តំបន់សេដ្ឋកិច្ចផ្តាច់មុខ (Economic exclusive zone) មានចម្ងាយ ២០០ ម៉ាយល៍ ពីខ្សែមូលដ្ឋាន។ រដ្ឋនីមួយៗ មានសិទ្ធិពេញលេញ និង ផ្តាច់មុខលើធនធាន និង រ៉ែលើដែនទឹកនោះ ទាំងផ្នែក ខាងលើ និង ផ្នែកខាងក្រោម។
- តំបន់សមុទ្រអន្តរជាតិ (High Sea /International Sea) ជាតំបន់ផ្ទៃសមុទ្រអន្តរជាតិ មិនមែនជា កម្មសិទ្ធិរបស់រដ្ឋណាមួយឡើយ ពិភពលោកទាំងមូលអាចធ្វើ ចរាចរការហោះហើរដោយរាប់ ទាំងការស្រាវជ្រាវវិទ្យាសាស្ត្រ និង នេសាទទៀតផង។ នៅក្នុងដែនទឹកអន្តរជាតិនេះ រដ្ឋទាំងអស់ មានសិទ្ធិក្នុងការប្រើប្រាស់ស្មើគ្នា ដូចជាការនេសាទ ការដឹកជញ្ជូន ឬ គោលបំណងផ្សេងៗ ទៀត។

²⁶ បាន ជាទី១, ទំនាក់ទំនងអន្តរជាតិ, (កុំពេញ ២០១៥), ទំព័រទី ២០

១.២.៣ រដ្ឋាភិបាល

រដ្ឋាភិបាល គឺជាធាតុដ៏សំខាន់ទីបីរបស់រដ្ឋ^{២៧}។ រដ្ឋាភិបាល គឺជាធាតុដ៏សំខាន់ទីបីរបស់រដ្ឋ។ រដ្ឋាភិបាល នៅក្នុងឆាកអន្តរជាតិបច្ចុប្បន្នមានលក្ខណៈស្របច្បាប់ និង មានសមត្ថកិច្ចក្នុងទំនាក់ទំនងអន្តរជាតិរដ្ឋាភិបាល ដទៃទៀតដូចខាងក្រោម៖

- ១- ជារដ្ឋាភិបាលកើតចេញពីការទុកចិត្តរបស់ប្រជាពលរដ្ឋ
- ២- ជារដ្ឋាភិបាលដែលមានការគាំទ្រដ៏ច្រើនលើសលប់ ពីសំណាក់ប្រជាពលរដ្ឋ
- ៣- រដ្ឋាភិបាលនោះគ្រប់គ្រងទឹកដីមួយភាគធំ ឬ ទាំងស្រុងពេញផ្ទៃប្រទេស
- ៤- មានសមត្ថកិច្ចធ្វើទំនាក់ទំនងជាមួយ នឹង រដ្ឋដទៃទៀត។

ក្នុងនាមជានីតិបុគ្គល រដ្ឋអាចតំណាងឡើងដោយ អង្គការនយោបាយទាំងឡាយ ដែលប្រមូលផ្តុំដោយ បុគ្គលជាច្រើន ហើយអាចចូលរួមក្នុងទំនាក់ទំនងជាមួយរដ្ឋដទៃទៀតបាន។ រដ្ឋាភិបាល គឺជាធាតុផ្សំមួយក្នុង ចំណោមធាតុផ្សំទាំង៣ ដែលអាចបង្កើតជារដ្ឋបាន។ រដ្ឋាភិបាលនៅទីនេះមិនមែនសំដៅលើតែ ជាអង្គការនីតិប្រតិបត្តិតែមួយប៉ុណ្ណោះរបស់រដ្ឋណាមួយទេ តែវាត្រូវប្រមូលផ្តុំនូវធនាសម្ព័ន្ធរដ្ឋទាំងអស់តែម្តង ដូចជាអំណាច នីតិបញ្ញត្តិ អំណាចនីតិប្រតិបត្តិ អំណាចតុលាការ និងរដ្ឋបាលសាធារណៈរបស់រដ្ឋទាំងមូលតែម្តង។ រដ្ឋាភិបាល សំដៅលើអ្នកដែលតំណាងឱ្យរដ្ឋខ្លួនឯងនេះតែម្តង។

ឋានៈជារដ្ឋត្រូវមានការឆ្លុះបញ្ចាំងតាមរយៈការបង្កើតរដ្ឋាភិបាល ពិតប្រាកដមួយ ដែលកត្តាទាំងអស់នេះ បើយើងក្រឡេកមើលទិដ្ឋភាពកោះតែវ៉ាន់ឯណោះវិញមានការបង្កើតរដ្ឋាភិបាល ពិសេសតាមរយៈការបោះឆ្នោត ជ្រើសរើសអ្នកតំណាងរបស់ខ្លួន។ ហើយក៏ពុំមែនមានត្រឹមតែអ្នកតំណាងប៉ុណ្ណោះនោះទេ ថែមទាំងមាននូវស្ថាប័ន ដឹកនាំនានាថែមទៀតផង។

សូមគូសបញ្ជាក់ផងដែរថា ប្រព័ន្ធនយោបាយរបស់តៃវ៉ាន់ មានប្រធានាធិបតី និងអនុប្រធានាធិបតី ដែលត្រូវ ជ្រើសរើសតាមរយៈការបោះឆ្នោតក្នុងរយៈពេល៤ឆ្នាំម្តង។ ក្នុងការបោះឆ្នោតនីតិបញ្ញត្តិរបស់តៃវ៉ាន់ អ្នកបោះឆ្នោត ម្នាក់ៗ បោះឆ្នោតសម្រាប់ថ្នាក់ស្រុកផង និងការបោះឆ្នោតសម្រាប់ថ្នាក់ជាតិផង។ ប្រធានាធិបតីគឺជាប្រមុខរដ្ឋ និងជាមេបញ្ជាការនៃកងកម្លាំងប្រដាប់អាវុធ តំណាងឱ្យប្រទេសជាតិក្នុងទំនាក់ទំនងបរទេស ហើយត្រូវបានផ្តល់ សិទ្ធិអំណាចក្នុងការតែងតាំងប្រធានផ្នែកទាំងបួនរបស់រដ្ឋាភិបាល រួមទាំងនាយករដ្ឋមន្ត្រី ដែលជាអ្នកដឹកនាំ ប្រតិបត្តិ Yuan ឬគណៈរដ្ឋមន្ត្រី ហើយត្រូវរាយការណ៍ ជាប្រចាំចំពោះនីតិបញ្ញត្តិ Yuan ឬនីតិបញ្ញត្តិ។ ប្រធាន ក្រសួងគណៈកម្មាការ និងទីភ្នាក់ងារក្រោមការគ្រប់គ្រងរបស់ Yuan ត្រូវបានតែងតាំងដោយនាយករដ្ឋមន្ត្រី និង

²⁷ ចាន់ ជាតិ, ទំនាក់ទំនងអន្តរជាតិ, (ភ្នំពេញ ២០១៥), ទំព័រទី ២៦

បង្កើតក្រុមប្រឹក្សាប្រតិបត្តិ Yuan។ ដើម្បីបង្កើនប្រសិទ្ធភាពរដ្ឋបាល នាយកប្រតិបត្តិ Yuan កំពុងដំណើរការរៀបចំ រចនាសម្ព័ន្ធឡើងវិញ ដើម្បីកាត់បន្ថយចំនួនអង្គភាពថ្នាក់គណៈរដ្ឋមន្ត្រីពី ៣៧ ទៅ ២៩។

បន្ទាប់ពីការរៀបចំឡើងវិញដែលបានចាប់ផ្តើមនៅដើមឆ្នាំ២០១២ នាយកប្រតិបត្តិ Yuan នឹងមានក្រសួង ចំនួន ១៤ ក្រុមប្រឹក្សាចំនួនប្រាំបួន ទីភ្នាក់ងាររដ្ឋបាលចំនួនបី និងអង្គការចំនួនបួនផ្សេងទៀត។ នៅក្រោមរដ្ឋធម្មនុញ្ញ ROC ទាំងការតែងតាំងនាយករដ្ឋមន្ត្រី ឬនាយករដ្ឋមន្ត្រីតែងតាំងជារដ្ឋមន្ត្រី មិនមែនជាកម្មវត្ថុនៃការបញ្ជាក់ផ្នែក នីតិប្បញ្ញត្តិទេ។

ការតែងតាំងប្រធានាធិបតីនៃសមាជិកនៃការត្រួតពិនិត្យ Yuan និងការប្រឡង Yuan ក៏ដូចជាយុត្តិធម៌នៃ តុលាការ Yuan ត្រូវតែត្រូវបានបញ្ជាក់ដោយនីតិប្បញ្ញត្តិ។ សមាជិកសភាជ្រើសរើសប្រធាននីតិប្បញ្ញត្តិ ឬវាគ្មានពី ក្នុងចំណោមជួររបស់ពួកគេ។

ដោយសារតួនាទីសំខាន់របស់ប្រធានាធិបតីក្នុងការបំពេញមុខងាររបស់រដ្ឋាភិបាល ពាក្យ «គណបក្សកាន់ អំណាច» តំណាងឱ្យគណបក្សនយោបាយណាមួយកាន់កាប់ការិយាល័យប្រធានាធិបតី។ គណបក្ស Kuomintang បានកាន់តំណែងជាប្រធានាធិបតីនៅតែវ៉ាន់ អស់រយៈពេលជាង ៥៩សតវត្សរ៍ មុនពេលគណបក្ស ប្រជាធិបតេយ្យ Progressive បានឈ្នះការបោះឆ្នោតប្រធានាធិបតីឆ្នាំ២០០០ និងឆ្នាំ២០០៤។ KMT បាន ត្រលប់មកកាន់អំណាចវិញនៅឆ្នាំ២០០៨ និងឆ្នាំ២០១២។ DPP បានឈ្នះការបោះឆ្នោតប្រធានាធិបតីឆ្នាំ២០១៦ និងឆ្នាំ២០២០ ដែលជាការកាត់សម្គាល់ការផ្លាស់ប្តូរអំណាចទីបីចាប់តាំងពីលទ្ធិប្រជាធិបតេយ្យរបស់ប្រទេស។

នៅក្នុងការបោះឆ្នោតនីតិកាលខែមករា ឆ្នាំ២០២០ គណបក្ស DPP ទទួលបាន ៥៤ភាគរយនៃអាសនៈនៅ ក្នុងសភា ខណៈដែល KMT ទទួលបាន ៣៤ភាគរយ។ គណបក្សធំៗផ្សេងទៀតដែលមានវត្តមាននៅក្នុងសភា រួមមាន គណបក្សប្រជាជនតៃវ៉ាន់ និងគណបក្សអំណាចថ្មី។²⁸

²⁸ គេហទំព័រ៖ https://www.taiwan.gov.tw/content_4.php ចូលមើលចុងក្រោយ ថ្ងៃទី០១ ខែកក្កដា ឆ្នាំ២០២៣ ។

ជំពូកទី២

**ការទទួលស្គាល់រដ្ឋ
នៅក្នុងនីតិអន្តរជាតិ**

ជំពូកទី២

ការទទួលស្គាល់រដ្ឋ នៅក្នុងនីតិអន្តរជាតិ

សហគមន៍អន្តរជាតិ គឺជាទីកន្លែងដែលបណ្តារដ្ឋរស់នៅជាមួយគ្នា និងមានទំនាក់ទំនងគ្នាទៅវិញទៅមក។ ប្រវត្តិសាស្ត្របង្ហាញថាអត្តសញ្ញាណ និងចំនួនរដ្ឋដែលរស់នៅក្នុងសហគមន៍អន្តរជាតិ តែងមានការប្រែប្រួល។ មានន័យថា រដ្ឋខ្លះបានបាត់រូបរាងក្នុងសហគមន៍អន្តរជាតិ ចំណែករដ្ឋខ្លះទៀតបានចាប់កំណើតនិងត្រូវបានទទួលស្គាល់ថ្មី។ ប្រទេសដែលធ្លាប់ស្ថិតក្រោមអាណានិគមរដ្ឋបរទេស បានទទួលភាពជាដ្ឋ។ ជាក់ស្តែង សហភាពសូវៀត ដែលត្រូវបានដួលរលំដោយបញ្ហាសេដ្ឋកិច្ច យោធា និងកត្តាផ្សេងៗទៀត ហើយបានធ្វើឱ្យរដ្ឋជាច្រើនបង្កើតជាដ្ឋឯករាជ្យ ឬជាប្រទេសថ្មី ឧទាហរណ៍ ហ្វាំងឡង់ ឡាតវី លីទុយអានី ប៉ូឡូញ ជាដើម។ ក្នុងនោះក៏មានប្រទេសរុស្ស៊ី ជាប្រទេសដ៏ធំមួយចាប់កំណើតថ្មីក្រោយសង្គ្រាមលោកលើកទី២ បន្ទាប់ពីសហភាពសូវៀតដួលរលំ²⁹។ ចំណែកប្រទេសមួយចំនួនទៀត ឧទាហរណ៍ព្រះរាជាណាចក្រកម្ពុជា និងព្រះរាជាណាចក្រកម្ពុជា ត្រូវបានប្រកាសឯករាជ្យ និងទទួលស្គាល់ភាពជាដ្ឋ បន្ទាប់ពីមានការដួលរលំនៃការដាក់អាណានិគមរបស់ប្រទេសបារាំងនៅអាស៊ីអាគ្នេយ៍³⁰។ សូម្បីតែក្នុងករណីរដ្ឋដែលមានស្រាប់ ក៏ដូចជាបដិវត្តន៍ ឬព្រឹត្តិការណ៍មួយចំនួនកើតឡើងនាំឱ្យមានរដ្ឋាភិបាលថ្មីកើតឡើង ហើយនាំឱ្យមានការកើតឡើងជាបញ្ហាពាក់ព័ន្ធនឹងការទទួលស្គាល់រដ្ឋាភិបាលថ្មីដែលជំនួសរដ្ឋាភិបាលចាស់។ ករណីទាំងនេះ នាំឱ្យរដ្ឋនីមួយៗ ត្រូវសម្រេចចិត្តថា តើគួរទទួលស្គាល់រដ្ឋ ឬរដ្ឋាភិបាលថ្មី ឬយ៉ាងណា។ ការទទួលស្គាល់រដ្ឋ ឬរដ្ឋាភិបាល ពាក់ព័ន្ធទៅនឹងផលវិបាកផ្នែកច្បាប់ទាំងក្នុង និងក្រៅប្រទេស។ បញ្ហាប្រឈមជាក់ស្តែងក្នុងពេលបច្ចុប្បន្ន នៅឯប្រទេសមីយ៉ាន់ម៉ា ក៏មានការបង្កើតថ្មីនូវរដ្ឋាភិបាលស្រមោល និងមានរដ្ឋាភិបាលចាស់ដឹកនាំដោយយោធាដែលមានអំណាចក្នុងប្រទេស។ ស្ថានភាពនៅមីយ៉ាន់ម៉ានេះក៏ជាកត្តាធំជះឥទ្ធិពលដល់បញ្ហាក្នុងតំបន់អាស៊ានដែលពុំអាចខ្វះបានក្នុងការប្រជុំកំពូលម្តងៗ មានការលើកឡើងអំពីការផ្តល់កេរ្តិ៍ទៅឱ្យភាគីខាងណាតំណាងឱ្យប្រទេសមីយ៉ាន់ម៉ា។ ក្នុងករណីនៃដែនកោះតៃវ៉ាន់ និងប្រទេសចិនវិញ ជាការពិតណាស់ បើយើងវិលទៅមើលប្រវត្តិនៃអតីតកាល កោះតៃវ៉ាន់ត្រូវបានគេទទួលស្គាល់ និងត្រូវបានផ្តល់កេរ្តិ៍នៅក្នុងអង្គការសហប្រជាជាតិ តែក្នុងលក្ខខណ្ឌឬក្នុងក្របខណ្ឌនៃការជំនួសរដ្ឋាភិបាលចិនដោយរដ្ឋាភិបាល

²⁹ គេហទំព័រ៖ https://encyclopedia.1914-1918-online.net/article/post-war_economies_east_central_europe#:~:text=After%20World%20War%20I%2C%20five,Latvia%2C%20Lithuania%2C%20and%20Poland និងគេហទំព័រ៖ <https://www.britannica.com/story/25th-anniversary-of-the-end-of-the-soviet-union> ចូលមើលចុងក្រោយ ថ្ងៃទី០២ ខែកក្កដា ឆ្នាំ២០២៣។

³⁰ គេហទំព័រ៖ https://peacemaker.un.org/sites/peacemaker.un.org/files/KH-LA-VN_540720_GenevaAgreements.pdf ចូលមើលចុងក្រោយ ថ្ងៃទី០២ ខែកក្កដា ឆ្នាំ២០២៣។

កោះតែវ៉ាន់ប៉ុណ្ណោះ រហូតមកទល់នឹងពេលក្រោយរដ្ឋាភិបាលចិនក៏ត្រូវបានជំនួសកោអីចាស់របស់ខ្លួនវិញ នៅក្នុងស្ថាប័នអន្តរជាតិមួយនេះ។

ជាទូទៅក្នុងការទទួលស្គាល់រដ្ឋមួយគេត្រូវសិក្សាឬដាក់ជាសំនួរដូចតទៅ៖ «តើការទទួលស្គាល់គឺជាអ្វី? តើមូលហេតុអ្វីបានជាត្រូវទទួលស្គាល់? តើការទទួលស្គាល់ ត្រូវធ្វើឡើងដូចម្តេច? តើការទទួលស្គាល់មាន ប្រភេទ និងទម្រង់ដូចម្តេចខ្លះ? តើការទទួលស្គាល់នាំមកនូវផលវិបាកអ្វីខ្លះ?»

២.១ និយមន័យ និងមូលហេតុនៃការទទួលស្គាល់

ការទទួលស្គាល់ គឺជាកិច្ចឯកតោភាគីដែលអនុវត្តដោយរដ្ឋាភិបាលនៃរដ្ឋមួយ ដែលទទួលស្គាល់ជាផ្លូវការ នូវអត្ថិភាពនៃរដ្ឋ ឬរដ្ឋាភិបាល ឬក្រុមប្រឆាំងរដ្ឋាភិបាលណាមួយ។ ការទទួលស្គាល់អង្គភាពទាំងនេះ គឺជាបញ្ហា ដ៏ស្មុគស្មាញមួយនៃច្បាប់អន្តរជាតិព្រោះវាពាក់ព័ន្ធទៅនឹងបញ្ហានយោបាយ ច្បាប់ជាតិ និងច្បាប់អន្តរជាតិ។

ការទទួលស្គាល់រដ្ឋ គឺជាកិច្ចឯកតោភាគី និងជាឆន្ទានុសិទ្ធិ ដែលតាមរយៈនេះ រដ្ឋមួយប្រកាន់គោលជំហរ ណាមួយ ចំពោះស្ថានភាពរដ្ឋណាមួយ ឬព្រឹត្តិការណ៍ណាមួយដែលកើតឡើងក្តៅខ្លួន។³¹ ការទទួលស្គាល់រដ្ឋគឺ ជាកាតព្វកិច្ចចាំបាច់របស់រដ្ឋមួយ ក្នុងឋានៈរដ្ឋជាសមាជិកមួយរបស់សហគមន៍អន្តរជាតិ។

ការទទួលស្គាល់រដ្ឋ ដោយរដ្ឋមួយផ្សេងទៀត គឺជាការឆ្លុះបញ្ចាំងឱ្យឃើញថា រដ្ឋនោះមានសិទ្ធិ និងសមត្ថកិច្ច គ្រប់បែបយ៉ាង ដើម្បីធ្វើទំនាក់ទំនងអន្តរជាតិតាមផ្លូវច្បាប់ជាមួយរដ្ឋដែលបានទទួលស្គាល់នោះ។³² ការកំណត់ និយមន័យនៃការទទួលស្គាល់រដ្ឋ គឺជាការទទួលស្គាល់ជាឆន្ទៈមួយ ដើម្បីទទួលរដ្ឋថ្មីនោះ ឱ្យក្លាយទៅជា សមាជិកមួយនៃសហគមន៍អន្តរជាតិ។³³

ការទទួលស្គាល់រដ្ឋ គឺជាកិច្ចមួយដែលតាមរយៈនេះ រដ្ឋមួយអាចបញ្ជាក់ថាអត្ថិភាពរបស់រដ្ឋណាមួយទៀត មានពិតប្រាកដ និងជាក់ច្បាស់ ហើយដោយហេតុផលនេះ គាត់មានឆន្ទៈចាត់ទុករដ្ឋនោះ ជាសមាជិកមួយដែរ នៃសង្គមអន្តរជាតិ ដូចជាគាត់យល់ព្រមបង្កើតទំនាក់ទំនងការទូតជាដើម។³⁴ ការទទួលស្គាល់រដ្ឋមួយ គឺជា សកម្មភាពនយោបាយជាឯកតោភាគីរបស់រដ្ឋនីមួយៗហើយក៏គ្មានរដ្ឋណាមួយបង្ខិតបង្ខំឱ្យរដ្ឋមួយទៀតទទួល ស្គាល់រដ្ឋដទៃដែរ។

³¹ អ៊ីង រដ្ឋា, នីតិអន្តរជាតិសាធារណៈ, បោះពុម្ពលើកទី៦(ភ្នំពេញ, ២០១២), ទំព័រទី ១៥៩
³² ជុំ អ៊ឹម, ទំនាក់ទំនងអន្តរជាតិ, បោះពុម្ពលើកទី២(ភ្នំពេញ ៖ រោងពុម្ពផ្សាយជាតិ, ២០១១), ទំព័រទី ១៥៩
³³ ខៀវ ថវិកា, នីតិអន្តរជាតិសាធារណៈ, បោះពុម្ពលើកទី១(ភ្នំពេញ ៖ គីម ស្ទី, ២០១០), ទំព័រទី ១០៥
³⁴ អ៊ីង រដ្ឋា, នីតិអន្តរជាតិសាធារណៈ, បោះពុម្ពលើកទី៦(ភ្នំពេញ, ២០១២) ទំព័រទី ១៥៩

បញ្ហានៃការទទួលស្គាល់ គឺពាក់ព័ន្ធទៅនឹងរឿងនយោបាយ ច្រើនជាងច្បាប់។³⁵ ទង្វើរបស់រដ្ឋដែលទទួលស្គាល់ តែងតែផ្អែកទៅលើផលប្រយោជន៍ជាតិខ្លួន ដែលនៅភ្ជាប់គ្នាជាមួយនឹងកិច្ចរក្សាទំនាក់ទំនងជាមួយនឹងរដ្ឋ ឬរដ្ឋាភិបាលថ្មី។ ទោះជាយ៉ាងនេះក្តី ការទទួលស្គាល់ត្រូវតែផ្អែកទៅលើគោលការណ៍ច្បាប់ផងដែរ ព្រោះថាការទទួលស្គាល់ត្រូវបានចាត់ទុកថាជាសកម្មភាពនយោបាយដែលមានផលវិបាកផ្នែកច្បាប់។

ជាទូទៅ ការទទួលស្គាល់តែងតែធ្វើឡើងក្នុងទម្រង់ជាកិច្ចឯកភាពភាគីផ្លូវទូត ហើយសហគមន៍អន្តរជាតិមិនមានកំណត់នីតិវិធីតម្រូវណាមួយជាក់លាក់នោះទេ។ ការទទួលស្គាល់អាចជា៖

- ការទទួលស្គាល់រដ្ឋថ្មី
- ការទទួលស្គាល់រដ្ឋាភិបាលថ្មី
- ការទទួលស្គាល់ក្រុមបះបោរ (belligerency)។

លើសពីនេះ ការទទួលស្គាល់អាចជាការទទួលស្គាល់តាមផ្លូវច្បាប់ (de jure recognition) ការទទួលស្គាល់តាមព្រឹត្តិស័យ (de facto recognition) ការទទួលស្គាល់មានលក្ខខណ្ឌ (conditional recognition) ការទទួលស្គាល់ដោយស្លៀកស្លាត់ (implied recognition) និងការទទួលស្គាល់ដោយពាក្យពេចន៍ (express recognition)។

មូលហេតុទាំងឡាយដែលជាមូលដ្ឋានក្នុងការសម្រេចចិត្តទទួលស្គាល់រដ្ឋមួយមានច្រើនករណី ដូចជា សារៈសំខាន់ខាងវិស័យពាណិជ្ជកម្ម ទំនាក់ទំនងទៅនឹងនយោបាយក្នុងប្រទេស ទំនាក់ទំនងជាមួយនឹងសម្ព័ន្ធមិត្តខាងយោធា ហេតុផលមនុស្សធម៌ និងការធ្វើទំនាក់ទំនងខាងផ្លូវទូត។

ហេតុផលទាំងឡាយសម្រាប់ការសម្រេចទទួលស្គាល់រដ្ឋមួយមានច្រើនករណី ដូចជា សារៈសំខាន់ខាងសម្ព័ន្ធភាព វិស័យសេដ្ឋកិច្ច ពាណិជ្ជកម្ម វិទ្យាសាស្ត្រ នយោបាយ វប្បធម៌ ទំនាក់ទំនង ការទូត ហេតុផលនៃវិស័យមនុស្សធម៌ និងផលប្រយោជន៍ដទៃទៀត។ ការទទួលស្គាល់រដ្ឋ គឺជា ប្រធានបទមួយដ៏ពិបាកជាងគេ នៅក្នុងនីតិអន្តរជាតិ ពីព្រោះបញ្ហានេះជាបញ្ហាប្រទាក់ក្រឡាគ្នានៅ ក្នុងវិស័យនយោបាយ វិស័យនីតិអន្តរជាតិ និងនីតិក្នុងប្រទេស។ ការទទួលស្គាល់រដ្ឋមួយអាចដំណើរការទៅបានទៅតាមលក្ខណៈដូចជា ការចាប់កំណើតនៃរដ្ឋថ្មីមួយ ការបង្កើតរដ្ឋាភិបាលថ្មីនិងការប្រែប្រួលខាងទឹកដី។³⁶ ជាទូទៅ ការទទួលស្គាល់រដ្ឋកើតមានឡើងនៅពេលដែលរដ្ឋមួយមានការផ្លាស់ប្តូរទឹកដីក្នុងនោះរួមមានទិដ្ឋភាពដូចតទៅ៖

ទឹកដីឧត្តរាធិការ ទឹកដីរដ្ឋមួយបានទទួលមរតកពីរដ្ឋមួយផ្សេងទៀត។ ឧទាហរណ៍៖ ទឹកដី ប្រទេសរុស្ស៊ីបានបន្តមកពីអតីតរដ្ឋសហភាពសាធារណរដ្ឋសង្គមនិយមសូវៀត។

³⁵ គេហទំព័រ៖ <https://blog.iPLEaders.in/state-recognition/> ចូលមើលចុងក្រោយ នៅថ្ងៃទី២២ ខែធ្នូ ឆ្នាំ២០២២។

³⁶ នួន សុធិមន្ត, ទំនាក់ទំនងអន្តរជាតិ, បោះពុម្ព(ភ្នំពេញ ៖ បណ្ណាគារ អង្គជំរុញ, ២០០៧), ទំព័រទី ៤៣ ដល់ទំព័រទី៤៤

ទឹកដីអបគមន៍ មានន័យថា រដ្ឋមួយធ្វើត្រូវបានបង្កើតឡើងអាស្រ័យដោយបំបែកចេញពីទឹកដី នៃរដ្ឋចាស់។ ឧទាហរណ៍ ទឹកដីប្រទេសអាមេនី បានបំបែកចេញពីទឹកដីអតីតសហភាព សាធារណរដ្ឋសង្គមនិយមសូវៀត។

ទឹកដីដែលមានលក្ខណៈស្វ័យភាពខាងការគ្រប់គ្រង មានន័យថាប្រជាជាតិមួយដែលពីមុន នៅក្រោមការត្រួតត្រាពីបរទេស ហើយទើបទទួលបានស្វ័យភាពក្នុងការគ្រប់គ្រងដោយខ្លួនឯង។ ករណីទឹកដីកោះទីម័រខាងកើត ដែលទើបនឹងទទួលបានឯករាជ្យពេញលេញនៅថ្ងៃទី២០ ខែឧសភា ឆ្នាំ២០០២។

រដ្ឋមួយដែលត្រូវបានសហគមន៍អន្តរជាតិទទួលស្គាល់ ចាំបាច់ត្រូវមានលក្ខខណ្ឌមួយចំនួនដូចជា៖

- មានការរៀបចំនយោបាយមួយជាក់លាក់
- មានការគ្រប់គ្រងលើដែនដីទាំងមូលជាអចិន្ត្រៃយ៍
- មានឯករាជ្យភាព

រួមផ្សំទៅដោយធាតុសំខាន់ៗរបស់រដ្ឋ ដូចជា ទឹកដី ប្រជាពលរដ្ឋ រដ្ឋាភិបាល និងអធិបតេយ្យភាព មិនស្ថិតនៅក្រោមការត្រួតត្រារបស់ប្រទេសដទៃ។³⁷

២.២ ប្រភេទ និងទម្រង់នៃការទទួលស្គាល់

ការទទួលស្គាល់មានច្រើនប្រភេទ ដែលទាំងនោះអាចជា ការទទួលស្គាល់រដ្ឋថ្មី ការទទួលស្គាល់រដ្ឋាភិបាលថ្មី ឬការទទួលស្គាល់ក្រុមប្រឹក្សាប្រទេស ហើយក្រៅពីនេះគេអាចទទួលស្គាល់អង្គភាពផ្សេងៗទៀតផងដែរ។ ការទទួលស្គាល់អាចមានទម្រង់ផ្សេងៗ ដូចជា៖³⁸

- ការទទួលស្គាល់ផ្លូវច្បាប់ ឬតាមព្រឹត្តិសិទ្ធិ
- ការទទួលស្គាល់ដោយពាក្យពេចន៍ ឬដោយតុលាការ និងអាចជា
- កិច្ចមានលក្ខខណ្ឌ (conditional)

២.២.១ ការទទួលស្គាល់រដ្ឋ និងរដ្ឋាភិបាល

នៅពេលដែលមានការចាប់បដិសន្ធិរដ្ឋថ្មីមួយ នោះរដ្ឋដទៃទៀតនឹងត្រូវពិចារណាថា «តើទទួលស្គាល់ឬមិនទទួលស្គាល់?»។ ការទទួលស្គាល់មានន័យថាការបង្ហាញឆន្ទៈរបស់រដ្ឋទទួលស្គាល់ទំនាក់ទំនងជាមួយរដ្ឋថ្មី

³⁷ នួន សុធិមន្ត. ទំនាក់ទំនងអន្តរជាតិ, បោះពុម្ព(ភ្នំពេញ ៖ បណ្ណាគារ អង្គធំ, ២០០៧), ទំព័រទី ៤៣

³⁸ គេហទំព័រ៖ <https://law2021.wordpress.com/2021/12/20/state-recognition/#%E1%9F%A3-%E1%9E%94%E1%9F%92%E1%9E%9A%E1%9E%97%E1%9F%81%E1%9E%91-%E1%9E%93%E1%9E%B7%E1%9E%84%E1%9E%91%E1%9E%98%E1%9F%92%E1%9E%9A%E1%9E%84%E1%9F%8B%E1%9E%93%E1%9F%83%E1%9E%80%E1%9E%B6%E1%9E%9A%E1%9E%91%E1%9E%91%E1%9E%BD%E1%9E%9B%E1%9E%9F%E1%9F%92%E1%9E%82%E1%9E%B6%E1%9E%9B%E1%9F%8B> ចូលមើលចុងក្រោយ នៅថ្ងៃទី២២ ខែធ្នូ ឆ្នាំ២០២២។

ក្នុងនាមជាសមាជិកសហគមន៍អន្តរជាតិ។ ដើម្បីផ្តល់ការទទួលស្គាល់ដល់អង្គភាពថ្មីមួយ អង្គភាពនោះត្រូវបំពេញនូវតម្រូវការមូលដ្ឋាននៃភាពជាដ្ឋាន។

ការទទួលស្គាល់រដ្ឋមួយ មានន័យថាជាការផ្តល់សមាជិកភាពដល់រដ្ឋនោះទៅក្នុងសហគមន៍អន្តរជាតិ ហើយជាលទ្ធផលរដ្ឋថ្មីនោះនឹងទទួលបានបុគ្គលភាពគតិយុត្តអន្តរជាតិ។ ការទទួលស្គាល់ ជាការអនុញ្ញាតឱ្យរដ្ឋដែលត្រូវបានទទួលស្គាល់អនុវត្តសិទ្ធិ និងកាតព្វកិច្ចក្រោមច្បាប់អន្តរជាតិ។ ការទទួលស្គាល់រដ្ឋថ្មី មានការពាក់ព័ន្ធដោយស្វ័យប្រវត្តិទៅនឹងការទទួលស្គាល់រដ្ឋាភិបាលនៃរដ្ឋនោះ។

ការទទួលស្គាល់រដ្ឋាភិបាលថ្មី មានភាពដាច់ដោយឡែកពីការទទួលស្គាល់រដ្ឋាភិបាល ទោះបីជាក្នុងគោលការណ៍ ភាគច្រើនគេចាត់ទុកថាការទទួលស្គាល់ទាំងពីរប្រភេទនេះអនុវត្តគោលការណ៍ច្បាប់ និងនយោបាយដូចគ្នា។ ចំពោះរដ្ឋការទទួលស្គាល់ត្រូវឆ្លងកាត់ការពិចារណាលើការបំពេញបាននូវតម្រូវការមូលដ្ឋាននៃភាពជាដ្ឋាន ចំណែកការទទួលស្គាល់រដ្ឋាភិបាល គេនឹងពិចារណាលើលក្ខខណ្ឌសំខាន់ៗពីរប្រសិទ្ធភាព និងភាពឯករាជ្យ។

គួរកត់សម្គាល់ថា អត្ថិភាពនៃរដ្ឋាភិបាលដែលមានប្រសិទ្ធភាពនិងឯករាជ្យភាព គឺជាខ្លឹមសំខាន់ដើម្បីទទួលបានភាពជាដ្ឋាន។ តាមរយៈការទទួលស្គាល់រដ្ឋាភិបាល រដ្ឋដែលទទួលស្គាល់ទទួលយកកិច្ចទំនាក់ទំនងជាមួយនឹងរដ្ឋាភិបាល ដូចជាអាជ្ញាធររដ្ឋ ហើយរដ្ឋទទួលស្គាល់នោះនឹងផ្តល់នូវបុព្វសិទ្ធិ និងអភ័យឯកសិទ្ធិស្របតាមប្រព័ន្ធច្បាប់ផ្ទៃក្នុងរបស់ខ្លួន។

ការផ្តល់ ឬមិនផ្តល់ការទទួលស្គាល់ មិនមានឥទ្ធិពលឡើយទៅលើការទទួលស្គាល់រដ្ឋ។ ការទទួលស្គាល់រដ្ឋមានឥទ្ធិពលដល់បុគ្គលភាពគតិយុត្តរបស់រដ្ឋ ខណៈដែលការទទួលស្គាល់រដ្ឋាភិបាលមានឥទ្ធិពលដល់ឋានៈរបស់រដ្ឋាភិបាលក្នុងក្នុងនាមជាអាជ្ញាធររបស់រដ្ឋ មិនមែនជាការទទួលស្គាល់ឋានៈជាដ្ឋានឡើយ។ ករណីនេះ រដ្ឋាភិបាលបន្តបន្ទាប់ទៀតអាចមិនត្រូវបានទទួលស្គាល់។ ក៏ប៉ុន្តែ ការទទួលស្គាល់រដ្ឋមានលក្ខណៈអចិន្ត្រៃយ៍ ពោលគឺនៅពេលដែលរដ្ឋថ្មីត្រូវបានទទួលស្គាល់ វានឹងទទួលបានបុគ្គលភាពគតិយុត្តក្រោមច្បាប់អន្តរជាតិជារៀងរហូត។ ប្រសិនបើរដ្ឋាភិបាលរបស់រដ្ឋមានការផ្លាស់ប្តូរ ស្របតាមនីតិវិធីកំណត់ដោយរដ្ឋធម្មនុញ្ញរបស់រដ្ឋនោះ នោះនឹងមិនមានបញ្ហាអ្វីកើតឡើងឡើយ ព្រោះថារដ្ឋាភិបាលនោះទទួលបានអំណាចត្រឹមត្រូវ និងរក្សាបានស្ថិរភាពផ្ទៃក្នុង។ ក្នុងករណីនេះ ការទទួលស្គាល់រដ្ឋាភិបាលដោយរដ្ឋដទៃទៀត ធ្វើឡើងដើម្បីបំពេញលក្ខខណ្ឌទម្រង់តែប៉ុណ្ណោះ។ បញ្ហាទទួលស្គាល់រដ្ឋាភិបាលថ្មីកើតឡើងនៅពេលដែល មានការផ្លាស់ប្តូរមិនស្របទៅនឹងរដ្ឋធម្មនុញ្ញ ឬមានបដិវត្តន៍។ ការទទួលស្គាល់រដ្ឋាភិបាលបដិវត្តន៍ គឺជាបញ្ហាដ៏លំបាកមួយ ហើយការសម្រេចចិត្តទទួលស្គាល់ ឬមិនទទួលស្គាល់ ត្រូវធ្វើឡើងដោយប្រុងប្រយ័ត្នបំផុត។

២.២.២ ការទទួលស្គាល់ក្រុមបះបោរ (Recognition of Belligerency)

នៅពេលដែលផ្នែកមួយនៃទឹកដី និងប្រជាជនរបស់រដ្ឋស្ថិតក្រោមការគ្រប់គ្រងដោយក្រុមបះបោរប្រឆាំងនោះក្រុមប្រឆាំងអាចនឹងទាមទារបំបែករដ្ឋមួយជាចំណែកឡើយ ឬក៏តស៊ូផ្តល់រំលំ រដ្ឋាភិបាលដែលមានស្រាប់។ ដើម្បីទទួលបានការទទួលស្គាល់ ក្រុមបះបោរត្រូវមានអង្គភាពនយោបាយមួយដែលអាចអនុវត្តន៍ការគ្រប់គ្រង និងទទួលបានការគាំទ្រពីប្រជាជនក្នុងចំនួនសមស្រប ហើយត្រូវប្រព្រឹត្តដោយអនុលោមតាមច្បាប់សង្គ្រាម។ ដូច្នេះ ការទទួលស្គាល់ក្រុមបះបោរ គឺជាការទទួលស្គាល់ជាផ្លូវការដោយរដ្ឋភាគីទីបី អំពីអត្ថិភាពសង្គ្រាមរវាងរដ្ឋាភិបាលកណ្តាល ជាមួយនឹងផ្នែកមួយនៃរដ្ឋ។ នេះបញ្ជាក់ថា រដ្ឋទីបី ដែលទទួលស្គាល់ថាក្រុមបះបោរទទួលបានសិទ្ធិ និងកាតព្វកិច្ចក្រោមច្បាប់សង្គ្រាម។ ជាការពិតណាស់ចំពោះការទទួលស្គាល់ក្រុមបះបោរ ពុំមានការទាក់ទងគ្នា នឹងប្រធានបទនៃសារណាទេ ហេតុនេះសូមធ្វើការបកស្រាយដោយខ្លី នឹងឈានចូលទៅចំណុចផ្សេងៗទៀត ដែលជាចំណុចសំខាន់។

២.២.៣ ការទទួលស្គាល់ តាមច្បាប់ និង តាមព្រឹត្តិស័យ

ការអនុវត្តរបស់រដ្ឋ បានបង្ហាញពីភាពខុសគ្នារវាងការទទួលស្គាល់តាមច្បាប់ (de jure recognition) និងការទទួលស្គាល់តាមព្រឹត្តិស័យ (de facto recognition)។ ភាពខុសគ្នានេះកើតឡើងក្នុងករណីទទួលស្គាល់រដ្ឋាភិបាលខណៈដែលការទទួលស្គាល់រដ្ឋអាចធ្វើឡើងភាគច្រើនតាមច្បាប់ ទោះបីជាមានករណីតិចតួចមានការទទួលស្គាល់រដ្ឋតាមព្រឹត្តិស័យ។ ករណី ប្រទេសឥណ្ឌូនេស៊ី ត្រូវបានទទួលស្គាល់ដោយរដ្ឋមួយចំនួន នៅក្នុងកំឡុងពេលដែលខ្លួនកំពុងប្រយុទ្ធទាមទារឯករាជ្យប្រឆាំងនឹងប្រទេសហូឡង់ដ៍កំឡុងឆ្នាំ១៩៤៥ ដល់ឆ្នាំ១៩៥៩។

ការទទួលស្គាល់តាមច្បាប់ មានន័យថា រដ្ឋដែលទទួលស្គាល់រដ្ឋ ឬរដ្ឋាភិបាលណាមួយ ផ្អែកលើការបំពេញបានតាមលក្ខខណ្ឌតម្រូវក្រោមច្បាប់អន្តរជាតិ។ ការទទួលស្គាល់តាមព្រឹត្តិស័យថា ក្នុងគំនិតរបស់រដ្ឋដែលទទួលស្គាល់ យល់ថាជារដ្ឋ ឬរដ្ឋាភិបាលដែលខ្លួនទទួលស្គាល់និងបំពេញបាននូវលក្ខខណ្ឌតម្រូវក្រោមច្បាប់អន្តរជាតិ។ ដូច្នេះការទទួលស្គាល់តាមព្រឹត្តិស័យមានលក្ខណៈបណ្តោះអាសន្ន ហើយអាចត្រូវបានដកចេញនៅពេលអនាគត។

ការទទួលស្គាល់រដ្ឋាភិបាលមួយតាមព្រឹត្តិស័យ បង្ហាញថាមានការសង្ស័យអំពីស្ថិរភាព និងលទ្ធភាពទទួលបានជោគជ័យរបស់រដ្ឋាភិបាលនោះ។ ការទទួលស្គាល់តាមព្រឹត្តិស័យពាក់ព័ន្ធទៅនឹងជំហរដែលស្ទាក់ស្ទើរដោយរដ្ឋទទួលស្គាល់ ដោយប្រើអាកប្បកិរិយារង់ចាំមើល ដែលជាទូទៅនឹងបំប្លែងជាការទទួលស្គាល់តាមច្បាប់នៅពេលដែលរដ្ឋទទួលស្គាល់យល់ឃើញថា រដ្ឋាភិបាលនោះបានគ្រប់គ្រងប្រកបដោយប្រសិទ្ធភាព។

ការទទួលស្គាល់តាមព្រឹត្តិស័យ អាចជាដំណាក់កាលដំបូងមុននឹងមានការទទួលស្គាល់តាមច្បាប់ ជាពិសេសក្នុងករណីដែលរដ្ឋាភិបាលឡើងកាន់អំណាចដោយមិនស្របតាមរដ្ឋធម្មនុញ្ញ។ ក្នុងករណីបែបនេះ ការទទួលស្គាល់តាមព្រឹត្តិស័យ គឺជាកិច្ចដែលមិនមានការប្តេជ្ញាចិត្តដែលរដ្ឋទទួលស្គាល់ យល់ថាមានរដ្ឋាភិបាលតាមព្រឹត្តិស័យ

កំពុងកាន់កាប់អំណាចអធិបតេយ្យតាមព្រឹត្តិស័យ ប៉ុន្តែការកាន់កាប់នោះអាចនឹងខុសច្បាប់ គ្មានស្ថិរភាព ឬមិនអចិន្ត្រៃយ៍។ នៅដំណាក់កាលបន្ទាប់ នៅពេលដែលការស្នាក់ស្នើត្រូវបានបញ្ចប់ដោយសារថា រដ្ឋាភិបាលតាមព្រឹត្តិស័យធានាបានការគ្រប់គ្រងប្រកបដោយប្រសិទ្ធភាពអចិន្ត្រៃយ៍ នឹងមានការទទួលស្គាល់តាមច្បាប់។ ជាក់ស្តែង អង់គ្លេសបានទទួលស្គាល់រដ្ឋាភិបាលស្បៀងតាមព្រឹត្តិស័យនៅឆ្នាំ១៩២១ ហើយក្រោយមកទៀត ទទួលស្គាល់តាមច្បាប់នៅឆ្នាំ១៩២៤។

ក្នុងកំឡុងសង្គ្រាមស៊ីវិលអេស្ប៉ាញ (១៩៣៦-១៩៣៩) អង់គ្លេសបានផ្តល់ការទទួលស្គាល់គួរបដិបក្ខសង្គ្រាមទាំងពីរ គឺទទួលស្គាល់តាមច្បាប់ចំពោះរដ្ឋាភិបាលសាធារណរដ្ឋ និងទទួលស្គាល់តាមព្រឹត្តិស័យចំពោះរដ្ឋាភិបាលរបស់ឧត្តមសេនីយ៍ប្រង់កូ (General Franco) ដែលបានកាន់កាប់ទឹកដីស្ទើរទាំងអស់ ហើយក្រោយមកក៏ទទួលស្គាល់រដ្ឋាភិបាលប្រង់កូតាមច្បាប់វិញ។ នៅកំឡុងឆ្នាំ១៩៨៨-១៩៩១ រដ្ឋភាគច្រើនទទួលស្គាល់រដ្ឋាភិបាលបដិបក្ខទាំងពីរនៅឡេប៉ាណុន (Lebanon) តាមព្រឹត្តិស័យ រហូតដល់ការបោះឆ្នោតដឹកនាំដោយ ឧត្តមសេនីយ៍ អាន (General Aoun) ត្រូវបានបញ្ចប់ ហើយរដ្ឋាភិបាលរបស់លោក សាលីម អាល់ហុស (Salim Al Huss) ត្រូវបានទទួលស្គាល់តាមច្បាប់។

នៅពេលដែលការទទួលស្គាល់ត្រូវបានធ្វើឡើងដោយសេចក្តីថ្លែងការណ៍ វាអាចត្រូវបានចាត់ទុកថាជាការទទួលស្គាល់តាមច្បាប់ លើកលែងតែរដ្ឋដែលទទួលស្គាល់នោះបានកំណត់ផ្សេងពីនេះ។ នៅពេលដែលការទទួលស្គាល់ ជាកិច្ចស្ងៀមស្ងាត់នោះ តែងតែមានភាពមិនច្បាស់លាស់អំពីឆន្ទៈរបស់រដ្ឋដែលទទួលស្គាល់នោះថាទទួលស្គាល់តាមច្បាប់ ឬតាមព្រឹត្តិស័យ។

ទោះបីជាមានមូលដ្ឋានខុសគ្នាខ្លះក្តី ប៉ុន្តែប្រសិទ្ធភាពនៃការទទួលស្គាល់ទាំងពីរប្រភេទខាងលើស្ទើរតែដូចគ្នាទាំងស្រុង។

២.២.៤ ការទទួលស្គាល់ជា លាយលក្ខណ៍អក្សរ និងដោយស្ងៀមស្ងាត់

ការទទួលស្គាល់គឺជាបញ្ហាឆន្ទៈ និងចេតនារបស់រដ្ឋ ដែលរដ្ឋអាចបង្ហាញការទទួលស្គាល់ជាលាយលក្ខណ៍អក្សរ (Express) ឬតាមរយៈភាពស្ងៀមស្ងាត់ (imply)។ ការទទួលស្គាល់ជាលាយលក្ខណ៍អក្សរគឺជាការបង្ហាញការទទួលស្គាល់រដ្ឋណាមួយ ធ្វើឡើងក្រោមរូបភាពជាសេចក្តីថ្លែងការណ៍ ទទួលស្គាល់ជាសាធារណៈ ឬអាចជាសារបញ្ជូនផ្ទាល់ពីប្រមុខរដ្ឋឬរដ្ឋមន្ត្រីការបរទេស ឬតាមរយៈកំណត់ទូត ឬអាចជាសន្និសីទស្តីពីការទទួលស្គាល់។

ប៉ុន្តែ មិនមែនមានន័យថាការទទួលស្គាល់ត្រូវតែធ្វើឡើងជាលាយលក្ខណ៍អក្សរនោះទេ ដែលករណីខ្លះការទទួលស្គាល់អាចបង្ហាញតាមរយៈភាពស្ងៀមស្ងាត់របស់រដ្ឋ។ ការទទួលស្គាល់ដោយស្ងៀមស្ងាត់ គឺជាការទទួលស្គាល់រដ្ឋ ឬរដ្ឋាភិបាលតាមរយៈសកម្មភាពមិនលាយលក្ខណ៍អក្សរ ដែលមានឆន្ទៈបង្ហាញការទទួលស្គាល់។

សកម្មភាពបង្ហាញការទទួលស្គាល់បែបនេះ ត្រូវតែច្បាស់លាស់ មិនមានភាពសង្ស័យ។ សកម្មភាពខ្លះអាចចាត់ទុកថា ជាការទទួលស្គាល់ដោយស្ម័គ្រចិត្ត ដូចជាសេចក្តីថ្លែងការណ៍អបអរសាទរការទទួលបានឯករាជ្យ ការបង្កើតទំនាក់ទំនងការទូតផ្លូវការ និងការចុះសន្ធិសញ្ញាទ្វេភាគីជាដើម។ ចំណែកសកម្មភាពខ្លះទៀតមិនអាចចាត់ទុកថាជាការទទួលស្គាល់នោះទេ ដែលទាំងនោះមានដូចជា ការចូលរួមក្នុងសន្ធិសញ្ញាពហុភាគី សមាជិកភាពនៃអង្គការអន្តរជាតិជាមួយគ្នា ការចូលរួមក្នុងសន្និសីទអន្តរជាតិជាមួយគ្នា ការរក្សាទំនាក់ទំនងក្រៅផ្លូវការ ការផ្តួចផ្តើមការចរចាជាមួយរដ្ឋដែលមិនត្រូវបានទទួលស្គាល់ និងការតវ៉ាប្រឆាំងនឹងរដ្ឋមិនត្រូវបានទទួលស្គាល់។

២.២.៥ ការទទួលស្គាល់មានលក្ខខណ្ឌ

ពេលខ្លះរដ្ឋមួយអាចត្រូវបានទទួលស្គាល់ ក្រោមលក្ខខណ្ឌជាក់លាក់ ដែលជាទូទៅលក្ខខណ្ឌពាក់ព័ន្ធដល់បំពេញកាតព្វកិច្ចមួយចំនួន។ ដូចជាករណី ការកំណត់លក្ខខណ្ឌឱ្យគោរព និងធានាសិទ្ធិក្រុមជាតិពន្ធុក្រុមជនជាតិភាគតិច ការគោរពសេរីភាពសាសនា ការគោរពវិធានច្បាប់ លទ្ធិប្រជាធិបតេយ្យ និងសិទ្ធិមនុស្ស។

ការខកខានមិនបានបំពេញកាតព្វកិច្ច មិនអាចនាំទៅរកការមោឃភាពការទទួលស្គាល់ឡើយ ព្រោះថានៅពេលដែលរដ្ឋទទួលស្គាល់រដ្ឋណាមួយហើយ ការទទួលស្គាល់មិនអាចត្រូវបានដកវិញបានឡើយ។ ជំនួសករណីនេះ រដ្ឋដែលទទួលស្គាល់ អាចចោទរដ្ឋដែលត្រូវបានទទួលស្គាល់ហើយមិនបានបំពេញតាមលក្ខខណ្ឌថារំលោភច្បាប់អន្តរជាតិ និងអាចបង្ហាញការធ្លាក់ចុះទំនាក់ទំនងការទូតជាមួយរដ្ឋដែលមិនគោរពលក្ខខណ្ឌ។ ទោះជាយ៉ាងនេះក្តី ការទទួលស្គាល់មានលក្ខខណ្ឌនៃរដ្ឋ ឬរដ្ឋាភិបាល ដែលកំពុងដំណើរការបង្កើត ក្នុងករណីខ្លះអាចដកវិញបាន។

២.៣ វិធានផ្លូវច្បាប់នៃការទទួលស្គាល់រដ្ឋ

ទោះបីជាការទទួលស្គាល់ គឺជាកិច្ចដែលមានលក្ខណៈនយោបាយក្តី ប៉ុន្តែវាអាចបង្កើតជាវិបាកគតិយុត្តសំខាន់ៗមួយចំនួន។ ការទទួលស្គាល់ មានវិបាកគតិយុត្តទាំងនៅកម្រិតអន្តរជាតិ និងកម្រិតជាតិ។ ប្រសិនបើអង្គភាពមួយត្រូវបានទទួលស្គាល់ថាជារដ្ឋ អង្គភាពនោះនឹងទទួលបានសិទ្ធិនិងកាតព្វកិច្ចពាក់ព័ន្ធ ព្រមទាំងទទួលបានបុព្វសិទ្ធិនិងអភ័យឯកសិទ្ធិផងដែរ។

២.៣.១ វិធានកម្រិតអន្តរជាតិនៃការទទួលស្គាល់

ការទទួលស្គាល់ មានការពាក់ព័ន្ធទៅនឹងការខ្វែងគំនិតគ្នារវាងទ្រឹស្តីពីរ គឺទ្រឹស្តីវិធានច្បាប់ (constitutive theory) និងទ្រឹស្តីជាក់ស្តែងនិយម (declaratory theory)។ ទ្រឹស្តីទទួលស្គាល់តាមច្បាប់ កំណត់ថារដ្ឋមួយត្រូវបានសហគមន៍អន្តរជាតិទទួលស្គាល់ គឺដោយសារថារដ្ឋបានបំពេញលក្ខខណ្ឌគ្រប់គ្រាន់តាមច្បាប់អន្តរជាតិដើម្បីទទួលបានភាពជាដ្ឋ ពោលគឺមានប្រជាជន ទឹកដី មានរដ្ឋាភិបាលឯករាជ្យ និងមានអធិបតេយ្យពិតប្រាកដ។

ចំណែកទ្រឹស្តីជាក់ស្តែងនិយម កំណត់ថា រដ្ឋមួយមានអត្ថិភាពបាន ទោះបីជាគ្មានការទទួលស្គាល់ពីបណ្តារដ្ឋខ្លះ ក៏ដោយ ហើយក៏អាចទទួលស្គាល់ពីសំណាក់រដ្ឋខ្លះៗទៀតដែរ។

ការទទួលស្គាល់ គឺជាហេតុផលនាំឱ្យរដ្ឋមួយទទួលបានសិទ្ធិ និងកាតព្វកិច្ចក្រោមច្បាប់អន្តរជាតិ។ ការទទួលស្គាល់រដ្ឋមួយ ដោយរដ្ឋមួយផ្សេងទៀត មិនតម្រូវថាត្រូវតែមានការបង្កើតទំនាក់ទំនងការទូត ឬសម្ព័ន្ធណាមួយរវាងរដ្ឋទាំងពីរនោះឡើយ។ ដូចគ្នាដែរ ការផ្តាច់ទំនាក់ទំនងរវាងរដ្ឋទាំងពីរ មិននាំទៅរកការដកការទទួលស្គាល់រដ្ឋឡើយ។

ការមិនទទួលស្គាល់រដ្ឋ ឬរដ្ឋាភិបាលមួយ មិនមែនមានន័យថា អង្គភាពនោះមិនអាចទទួលបានសិទ្ធិ និងកាតព្វកិច្ចក្រោមច្បាប់អន្តរជាតិទេ។ អ្វីដែលត្រូវកត់សម្គាល់គឺថា ក្នុងច្បាប់អន្តរជាតិ អត្ថិភាពនយោបាយនៃរដ្ឋមិនមែនពឹងផ្អែកលើការទទួលស្គាល់ពីរដ្ឋដទៃឡើយ ហេតុនេះរដ្ឋដែលមិនមានការទទួលស្គាល់ អាចនឹងចាត់ជា កម្មវត្ថុមួយនៃច្បាប់អន្តរជាតិផងដែរ។ រដ្ឋដែលមិនមានការទទួលស្គាល់ ត្រូវទទួលបានសិទ្ធិជាក់លាក់ និងមានកាតព្វកិច្ចជាច្រើនក្រោមច្បាប់អន្តរជាតិ។ អង្គភាពនេះ មានសិទ្ធិការពារបូរណភាព និងឯករាជ្យភាពរបស់ខ្លួន។ ការអនុវត្តសិទ្ធិទាំងនេះ ដោយរដ្ឋដែលមិនមានការទទួលស្គាល់ មិនមានកម្រិតណាមួយឡើយ ពោលគឺអាចអនុវត្តន៍ធម្មតាដូចគ្នានឹងរដ្ឋដែលមានការទទួលស្គាល់អញ្ចឹងដែរ។ ជាងនេះទៅទៀត រដ្ឋដែលមិនមានការទទួលស្គាល់ ត្រូវស្ថិតក្រោមកាតព្វកិច្ចនានាជាច្រើន ជាពិសេសពាក់ព័ន្ធជាមួយនឹងច្បាប់សង្គ្រាម។

២.៣.២ វិធានការប្រតិបត្តិការទទួលស្គាល់

ការទទួលស្គាល់រដ្ឋមួយ មានន័យថាជាការទទួលស្គាល់សិទ្ធិរបស់រដ្ឋនោះក្នុងការទទួលបានបុព្វសិទ្ធិ និងអភ័យឯកសិទ្ធិនៅចំពោះមុខតុលាការជាតិ។ ដ្បិតតែថា ការទទួលស្គាល់គឺជាកិច្ចអនុវត្តដោយអង្គការនីតិប្រតិបត្តិរបស់រដ្ឋមួយក៏ពិតមែន ប៉ុន្តែវិធានការទទួលស្គាល់នោះក៏ត្រូវមានឥទ្ធិពលដល់ការអនុវត្តរបស់អង្គការតុលាការផងដែរ ព្រោះថាសកម្មភាពរបស់រដ្ឋាភិបាលលើឆាកអន្តរជាតិ ជាសកម្មភាពតំណាងឱ្យរដ្ឋទាំងមូល។ ក្រៅពីនេះ ការទទួលស្គាល់ក៏មានឥទ្ធិពលសកម្មភាពមួយចំនួនរបស់អង្គការនីតិប្រតិបត្តិរបស់រដ្ឋផងដែរ។

ជំពូកទី៣

ករណីកោះតែវ៉ាន់

ជំពូកទី៣

ករណីកោះតែវ៉ាន់

៣.១ ស្ថានភាពជាក់ស្តែង៖ កោះតែវ៉ាន់

ការប្រឈមមុខជាក់គ្នារវាងសហរដ្ឋអាមេរិក និងចិន លើបញ្ហាតៃវ៉ាន់ កើតឡើងដោយសារតែមានដំណើរទស្សនកិច្ចរបស់ប្រធានសភាតំណាងសហរដ្ឋអាមេរិក លោកស្រី ណាន់ស៊ី ដេឡូស៊ី (Nancy Pelosi) *ប្រធានសភាសហរដ្ឋអាមេរិក* នៅតៃវ៉ាន់ នៅយប់ថ្ងៃទី២ ខែសីហា ឆ្នាំ២០២២។ នេះជាទស្សនកិច្ចរបស់មន្ត្រីសហរដ្ឋអាមេរិកមានឋានៈខ្ពស់មួយ ទៅតៃវ៉ាន់លើកដំបូងចាប់តាំងពីឆ្នាំ ១៩៩៧។ កាលឆ្នាំនោះ លោក Newt Gingrich ប្រធានសភាតំណាងសហរដ្ឋអាមេរិក ក៏បានធ្វើទស្សនកិច្ចនៅតៃវ៉ាន់ដែរ។

ស្របគ្នានេះ ក្រសួងការបរទេសចិន ក្នុងថ្ងៃទី២ ខែសីហា ឆ្នាំ២០២២ បានថ្កោលទោសយ៉ាងខ្លាំង ចំពោះដំណើរទស្សនកិច្ចរបស់ប្រធានសភាតំណាងនៅតៃវ៉ាន់។ បើតាមក្រសួងការបរទេស ក្រុងប៉េកាំង បានដាក់ពាក្យតវ៉ារួចហើយជាមួយក្រុងវ៉ាស៊ីនតោន។ ឆ្លើយតបសកម្មភាពអាមេរិក រដ្ឋាភិបាលចិន បានហៅផែនការនៃដំណើរទស្សនកិច្ចរបស់លោកស្រី ដេឡូស៊ី ទៅកោះតៃវ៉ាន់ថាជា **ទង្វើបង្កហេតុ**។ ប្រធានាធិបតីចិន លោកស៊ី ជិនភីង បានប្រាប់សមភាគីអាមេរិក លោក ចូ បៃឌិន ដោយផ្ទាល់ថា ប្រទេសណាដែលជាមួយភ្លើង ប្រទេសនោះនឹងរលាក។³⁹

ក្រសួងការបរទេសកម្ពុជា ចេញសេចក្តីថ្លែងការណ៍ស្តីពីច្រកសមុទ្រតៃវ៉ាន់មានដូចខាងក្រោម⁴⁰ ៖

រាជរដ្ឋាភិបាលកម្ពុជា បានអះអាងថា ខ្លួនបាននិងកំពុង តាមដានយ៉ាងយកចិត្តទុកដាក់ សភាពការណ៍វិវត្តន៍ថ្មីៗ នៅច្រក សមុទ្រតៃវ៉ាន់ និងសូម ធ្វើសេចក្តីថ្លែងការណ៍ ដូចខាងក្រោម៖

រាជរដ្ឋាភិបាលកម្ពុជា សូមសម្តែងនូវការព្រួយបារម្ភយ៉ាងខ្លាំង ចំពោះការកើនឡើង នូវភាពតានតឹង ថ្មីៗនៅច្រកសមុទ្រតៃវ៉ាន់ និងស្នើសុំឱ្យគ្រប់ ភាគីពាក់ព័ន្ធ គោរពចំពោះ កិច្ចព្រមព្រៀងទាំងឡាយ ដែលត្រូវបានចុះហត្ថលេខារវាង សាធារណរដ្ឋប្រជាមានិតចិន និងសហរដ្ឋអាមេរិក ដូចដែលមានចែងក្នុងសេចក្តី ថ្លែងការណ៍រួមនានាកន្លងមក រវាង ភាគីទាំងពីរ។

រាជរដ្ឋាភិបាលកម្ពុជា ប្រកាន់ខ្ជាប់ជានិច្ចនូវ «គោលនយោបាយ ចិនតែមួយ» ដោយឥតងាកអប្បបរមា ហើយចាត់ ទុកបញ្ហានានាពាក់ព័ន្ធ នឹងហុងកុង តៃវ៉ាន់ ទីបេ និងស៊ីនជាំង ជាកិច្ចការ ផ្ទៃក្នុងរបស់ ចិន និង ជាសិទ្ធិ អធិបតេយ្យ របស់សាធារណរដ្ឋប្រជាមានិតចិន។

³⁹ គេហទំព័រ៖ <https://thmeythmey.com/?page=detail&id=117820> ចូលមើលចុងក្រោយ នៅថ្ងៃទី០២ ខែកក្កដា ឆ្នាំ២០២៣។

⁴⁰ គេហទំព័រ៖ <http://www.freshnewsasia.com.html> ចូលមើលចុងក្រោយ នៅថ្ងៃទី០២ ខែកក្កដា ឆ្នាំ២០២៣។

រាជរដ្ឋាភិបាលកម្ពុជា បានអំពាវនាវ ឱ្យភាគីពាក់ព័ន្ធទាំងអស់ ស្វែងរកដំណោះស្រាយ ប្រកប ដោយសន្តិវិធី រក្សាស្ថានភាពដើម និងចៀសវាង ការបង្កហេតុ ដើម្បីបុព្វហេតុ នៃ សន្តិភាព ស្ថិរភាព វឌ្ឍនភាព និងវិបុលភាពនៅក្នុងតំបន់ និងពិភពលោក។

ក្នុងរយៈពេលប៉ុន្មានឆ្នាំចុងក្រោយ ចិនបានសម្លឹងដោយភាពខឹងសម្បារចំពោះការរំកិលជិតគ្នារវាង សហរដ្ឋអាមេរិក និងតៃវ៉ាន់ នោះ បើទោះបីជាក្រុងវ៉ាស៊ីនតោន និងក្រុងតៃប៉ិក គ្មានទំនាក់ទំនងការទូតផ្លូវការ រវាងគ្នាក៏ដោយ។ អាមេរិកជាដៃគូដ៏សំខាន់បំផុតរបស់តៃវ៉ាន់ និងជាអ្នកផ្គត់ផ្គង់អាវុធឱ្យតៃវ៉ាន់។ គួរបញ្ជាក់ថា ចិន តែងចាត់ទុកតៃវ៉ាន់ជាខេត្តមួយរបស់ខ្លួន។ ក្នុងរយៈពេលនៃការកាន់តំណែងប្រធានាធិបតីចិនរបស់លោក ស៊ី ជីនពីង ជាង ១០ឆ្នាំកន្លងទៅ ទំនាក់ទំនងរវាងចិន និងតៃវ៉ាន់ដែលបានធ្លាក់ទាបខ្លាំងបានស្គាល់ភាពយ៉ាប់យឺនថែមទៀត នាប៉ុន្មានឆ្នាំកន្លងទៅ។

៣.១.១ បញ្ហាប្រជាពលរដ្ឋ

ជាការពិត កោះតៃវ៉ាន់ ពិតជាមានសញ្ជាតិតៃវ៉ាន់ ហើយមានប្រជាជនដែលប្រើប្រាស់លិខិតឆ្លងដែនរបស់ តៃវ៉ាន់ដូចដែលបានលើកឡើងនៅក្នុងជំពូកទី១ រួចរាល់មកហើយ។ ជាការបញ្ជាក់កាន់តែច្បាស់អំពីលិខិតឆ្លងដែន សូមលើកយកនូវការប្រកាសព័ត៌មានរបស់ក្រសួងការបរទេសតៃវ៉ាន់ លេខ ២៨៣ ដែលបានប្រកាសព័ត៌មានអំពី លិខិតឆ្លងដែនរបស់ខ្លួន នៅថ្ងៃទី១១ ខែមករា ឆ្នាំ២០២១។⁴¹ ក្នុងសេចក្តីប្រកាសនេះបានបញ្ជាក់ច្បាស់អំពីការ ប្រើប្រាស់លិខិតឆ្លងដែនរបស់ខ្លួន ជាពិសេសកំណត់អត្តសញ្ញាណរបស់ខ្លួន ជាងនេះទៅទៀត ក្រសួងការបរទេស តៃវ៉ាន់ បានបញ្ជាក់អំពីទម្រង់នៃការដាក់ថែមអក្សរអង់គ្លេសជាផ្លូវការ «REPUBLIC OF CHINA» និងពង្រីក ទំហំពុម្ពអក្សរ «TAIWAN» នេះជាការបញ្ជាក់យ៉ាងច្បាស់អំពីអត្តសញ្ញាណលិខិតឆ្លងដែននិងឆ្លុះបញ្ចាំងអំពី ប្រជាជនពិតប្រាកដនៃជនជាតិតៃវ៉ាន់។

៣.១.២ បញ្ហារដ្ឋាភិបាល និង ទឹកដី

ក្នុងទ្រឹស្តីរដ្ឋាភិបាល រដ្ឋចាំបាច់ត្រូវមានគោលនយោបាយរបស់ខ្លួន ស្ថាប័នដឹកនាំរបស់ខ្លួនដូចការណ៍ ជាក់ស្តែង។ តែទោះជាយ៉ាងណាបញ្ហារដ្ឋាភិបាលនេះមានភាពស្មុគស្មាញមិនត្រឹមតែកោះតៃវ៉ាន់តែប៉ុណ្ណា ប្រទេសផ្សេងៗក៏ដូចគ្នា។ កត្តាស្មុគស្មាញនេះសូមលើកយកបញ្ហាស្ថានភាពនៃកោះតៃវ៉ាន់និងប្រទេសចិនមក សិក្សា ក៏ដូចជាបង្ហាញឱ្យឃើញពីភាពស្មុគស្មាញ។

⁴¹ គេហទំព័រ៖ <https://www.boca.gov.tw/cp-220-6110-a3137-2.html> ចូលមើលចុងក្រោយ នៅថ្ងៃទី០២ ខែកក្កដា ឆ្នាំ២០២៣។
និស្សិតឈ្មោះ គង់ តាយសេង និង ម៉ម ម៉ាប់ ទំព័រ ២៧ សាស្ត្រាចារ្យណែនាំ៖ បណ្ឌិត យឹម គីរី

ប្រភពប្រវត្តិសាស្ត្របានបង្ហាញថា កោះតៃវ៉ាន់បានចូលមកក្រោមការគ្រប់គ្រងរបស់ចិនជាលើកដំបូងក្នុងសតវត្សទី១៧ នៅក្នុងរាជវង្សឈីង (Qing Emperor)⁴² ក្រោយមកទៀតនៅឆ្នាំ១៨៩៥ កោះតៃវ៉ាន់នេះត្រូវបានប្រគល់ទៅឱ្យប្រទេសជប៉ុនបន្ទាប់ពីចាញ់សង្គ្រាមចិនជប៉ុនលើកដំបូង។⁴³

នៅឆ្នាំ១៩៤៥ បន្ទាប់ពីជប៉ុនចាញ់សង្គ្រាមលោកលើកទី២ ក៏បានប្រគល់កោះនេះមកឱ្យប្រទេសចិនវិញ។ ដ្បិតយ៉ាងនេះក្តីប្រទេសចិនឬហៅថាចិនដ៏គោកបានផ្ទុះនៅសង្គ្រាមស៊ីវិលរវាងកងកម្លាំងរដ្ឋាភិបាលជាតិនិយមដែលដឹកនាំដោយលោក Chiang Kai-shek និងបក្សកុម្មុយនិស្តរបស់ ម៉ៅ សេទុង។

ពួកកុម្មុយនិស្តបានឈ្នះនៅឆ្នាំ១៩៤៩ ហើយបានកាន់កាប់នៅទីក្រុងប៉េកាំង។

ឈៀង កៃឆេក និងអ្វីដែលនៅសេសសល់ពីគណបក្សជាតិនិយម ដែលត្រូវបានគេស្គាល់ថាជា គូ មីនតាំង បានភៀសខ្លួនទៅកាន់កោះតៃវ៉ាន់ ជាកន្លែងដែលពួកគេគ្រប់គ្រងអស់រយៈពេលជាច្រើនទសវត្សរ៍បន្ទាប់។

ចិនចង្អុលទៅប្រវត្តិសាស្ត្រនេះ ដើម្បីនិយាយថា តៃវ៉ាន់ជាខេត្តរបស់ចិនដើមឡើយ។ ប៉ុន្តែជនជាតិតៃវ៉ាន់បានចង្អុលទៅប្រវត្តិសាស្ត្រដូចគ្នាដើម្បីប្រកែកថាពួកគេមិនដែលជាផ្នែកមួយនៃរដ្ឋចិនសម័យទំនើបដែលត្រូវបានបង្កើតឡើងដំបូងបន្ទាប់ពីបដិវត្តន៍នៅឆ្នាំ១៩១១ ឬសាធារណរដ្ឋប្រជាមានិតចិនដែលត្រូវបានបង្កើតឡើងក្រោមលោក ម៉ៅ សេទុង នៅឆ្នាំ១៩៤៩។

សូមគូសបញ្ជាក់ផងដែរថាទោះបីជាមានការគូសបញ្ជាក់ពីប្រវត្តិសាស្ត្រដែលជនជាតិតៃវ៉ាន់ប្រកែកថាមិនមែនជាផ្នែកមួយនៃរដ្ឋចិនក៏ពិតមែនតែប្រវត្តិសាស្ត្រចិនក៏មិនអាចប្រកែកបានដោយហេតុថាដែនកោះនេះត្រូវបានជប៉ុនប្រគល់ឱ្យចិនដោយចាញ់សង្គ្រាម ហើយជាការគ្រប់គ្រងក្រោមប្រទេសចិនបើទោះបីស្ថានភាពនយោបាយចិននិងកោះតៃវ៉ាន់យ៉ាងណាក្តី។ ជាការគូសបញ្ជាក់មួយទៀតបើទោះបីរដ្ឋាភិបាលណាមួយមានការផ្លាស់ប្តូរទីតាំងក្តី ជាក់ស្តែងដូចជា គូ មីនតាំង បានភៀសខ្លួនទៅកាន់កោះតៃវ៉ាន់ តែកោះតៃវ៉ាន់នេះពុំមានអនុសញ្ញា ឬសន្ធិសញ្ញា ឬច្បាប់អន្តរជាតិទាំងឡាយណាមកទទួលស្គាល់ពីការបំបែកខ្លួនចេញពីដែនដីអធិបតីយ្យរបស់ចិននោះទេ។

ចំពោះបញ្ហារដ្ឋាភិបាលវិញ ក្រោយពីគណបក្សកុម្មុយនិស្តចិនដឹកនាំដោយលោក ម៉ៅ សេទុង ក្នុងឆ្នាំ១៩៤៩ របបសាធារណរដ្ឋចិន ដឹកនាំដោយលោក ជាង កៃឆេក បានភៀសខ្លួនទៅបង្កើតរដ្ឋាភិបាលមួយនៅកោះតៃវ៉ាន់ ក្នុងកំឡុងពេលខ្លួនមានឋានៈជាជួសបច្ច័យដែលមានអាសនៈនៅក្នុងអង្គការសហប្រជាជាតិ។ ប៉ុន្តែនៅខែតុលា ឆ្នាំ១៩៧១ ផ្អែកតាមដំណោះស្រាយលេខ ២៧៥៨⁴³ អនុម័តដោយមហាសន្និបាតអង្គការសហប្រជាជាតិបាន

⁴² គេហទំព័រ៖ https://www.taiwan.gov.tw/content_3.php ចូលមើលចុងក្រោយ នៅថ្ងៃទី០២ ខែកក្កដា ឆ្នាំ២០២៣។

⁴³ គេហទំព័រ៖ <https://digitallibrary.un.org/record/192054?ln=en> ចូលមើលចុងក្រោយ ថ្ងៃទី០២ ខែកក្កដា ឆ្នាំ២០២៣។

ដកអាសនៈពីរបបសាធារណរដ្ឋចិន (កោះតៃវ៉ាន់បច្ចុប្បន្ន) មកឱ្យរដ្ឋាភិបាលសាធារណរដ្ឋប្រជាមានិតចិន ហៅថា ចិនដ៏គោកវិញ ដែលមានខ្លឹមសារដូចខាងក្រោម៖

២៧៥៨ (XXVI). ការស្តារឡើងវិញនូវសិទ្ធិស្របច្បាប់នៃសាធារណរដ្ឋប្រជាមានិតចិននៅក្នុងអង្គការសហប្រជាជាតិមហាសន្និបាត, រំលឹកឡើងវិញនូវគោលការណ៍នៃធម្មនុញ្ញអង្គការសហប្រជាជាតិ។

ដោយចាត់ទុកថា ការស្តារឡើងវិញនូវសិទ្ធិស្របច្បាប់នៃសាធារណរដ្ឋប្រជាមានិតចិនគឺជាចាំបាច់ទាំងការការពារធម្មនុញ្ញអង្គការសហប្រជាជាតិ និងសម្រាប់បុព្វហេតុដែលអង្គការសហប្រជាជាតិត្រូវបម្រើក្រោមធម្មនុញ្ញ។

ដោយទទួលស្គាល់ថា តំណាងរដ្ឋាភិបាលនៃសាធារណរដ្ឋប្រជាមានិតចិនគឺជាតំណាងស្របច្បាប់តែមួយគត់របស់ប្រទេសចិនទៅកាន់អង្គការសហប្រជាជាតិ ហើយថាសាធារណរដ្ឋប្រជាមានិតចិនគឺជាសមាជិកអចិន្ត្រៃយ៍មួយក្នុងចំណោមសមាជិកអចិន្ត្រៃយ៍ទាំងប្រាំនៃក្រុមប្រឹក្សាសន្តិសុខ។

សម្រេចចិត្តស្តារសិទ្ធិទាំងអស់របស់ខ្លួនឡើងវិញចំពោះសាធារណជនរបស់ប្រជាជនចិន និងទទួលស្គាល់តំណាងរដ្ឋាភិបាលរបស់ខ្លួនថាជាតំណាងស្របច្បាប់តែមួយគត់របស់ប្រទេសចិនទៅកាន់អង្គការសហប្រជាជាតិ និងដើម្បីបណ្តេញតំណាងរបស់ Chang Kai-shek ចេញពីកន្លែងនោះ។ ពួកគេកាន់កាប់ដោយខុសច្បាប់នៅអង្គការសហប្រជាជាតិ និងនៅក្នុងអង្គការទាំងអស់ដែលទាក់ទងនឹងវា។

រាប់ចាប់តាំងពីពេលនោះមក សហគមន៍អន្តរជាតិ បានទទួលស្គាល់ជាទូទៅពីគោលការណ៍ចិនតែមួយពោលគឺលើពិភពលោកនេះគឺមានចិនតែមួយគត់ ចំពោះតៃវ៉ាន់គ្រាន់តែជាដែនកោះមួយរបស់ប្រទេសចិនប៉ុណ្ណោះ។ ជាពិសេសទៅទៀត តៃវ៉ាន់ក៏គ្មានអាសនៈក្នុងអង្គការសហប្រជាជាតិនោះទេដែលមានន័យថា តៃវ៉ាន់មិនមែនជាអង្គការសហប្រជាជាតិ ហើយរដ្ឋាភិបាល សាធារណរដ្ឋប្រជាមានិតចិន គឺតំណាងឱ្យប្រទេសចិនទាំងមូលក្នុងនោះបូករួមទាំងតំបន់តៃវ៉ាន់ផងដែរ។

៣.២ ការសិក្សាវិភាគ ចំណុចវិជ្ជមាន និងចំណុចអវិជ្ជមាន

បន្ទាប់ពីបានលើកឡើងជាច្រើនអំពីទ្រឹស្តីដែលទាក់ទងនឹងការទទួលស្គាល់រដ្ឋ ជាពិសេសសញ្ញាណនិងធាតុផ្សំទាំង៣រួចមក នៅក្នុងជំពូកទី៣នេះនឹងវិលត្រឡប់មកវិញដោយក្រោយ ដើម្បីពិនិត្យពីស្ថានភាពជាក់ស្តែងកើតមានជាបញ្ហាក្នុងកោះតៃវ៉ាន់ និងការវិភាគអំពីចំណុចវិជ្ជមាន និងអវិជ្ជមាន ក៏ដូចជាបញ្ហានានាជាច្រើនទៀតផងដែរ។

៣.២.១ ចំណុចអវិជ្ជមាន

តាមរយៈការសិក្សាជាច្រើន ទោះស្ថិតក្នុងស្ថានភាពទ្រឹស្តី សញ្ញាណ ធាតុផ្សំ សបញ្ជាក់ឱ្យឃើញគុណសម្បត្តិ ជាច្រើនដែលបញ្ជាក់ថាកោះតៃវ៉ាន់ពិតជាគ្រប់គ្រាន់ក្នុងភាពជាដៃគូទោះបីមានស្ថានភាពស្មុគស្មាញយ៉ាងណាក្តី មិនថាទឹកដី ប្រជាពលរដ្ឋ ឬរដ្ឋាភិបាលក្តី តៃវ៉ាន់សុទ្ធតែមានគ្រប់គ្រាន់មិនអាចខ្វះបាន។

លើសពីនេះ រដ្ឋាភិបាលកោះតៃវ៉ាន់ក៏មានទំនាក់ទំនងល្អជាមួយសហរដ្ឋអាមេរិក និងប្រទេសខ្លះទៀត ដែលក្នុងស្ថានភាពដ៏លំបាកពិសេសការគម្រោមកំហែងអំពីចិន តែងមានការឃ្លាំមើល ការជួយពីសំណាក់ សហរដ្ឋអាមេរិក។ ដូចជាករណីនៅដើមឆ្នាំ២០២៣ សហរដ្ឋអាមេរិកបានឃ្លាំងមើល ចំពោះការធ្វើសមយុទ្ធ យោធារបស់ចិននៅជុំវិញតៃវ៉ាន់ ដែលសមយុទ្ធយោធាធ្វើឡើងក្នុងរយៈពេល៣ថ្ងៃ ក្រោយពីថ្នាក់ដឹកនាំតៃវ៉ាន់ ទើបត្រឡប់មកពីសហរដ្ឋអាមេរិក ចំនួន១ថ្ងៃ។⁴⁴ ការការពាររបស់សហរដ្ឋអាមេរិក ពុំមែនត្រឹមតែកើតឡើងនៅឆ្នាំ ២០២៣ នេះ ប៉ុណ្ណោះនោះទេ សូមត្រឡប់ក្រោយដែលនៅឆ្នាំ២០២២ ប្រធានសភាអាមេរិកលោកស្រី Nancy Pelosi បានប្តេជ្ញាថា សហរដ្ឋអាមេរិកនឹងមិនឱ្យកោះតៃវ៉ាន់នៅឯកោឡើយ ខណៈដែលទីក្រុងប៉េកាំងបានបង្កើន សមយុទ្ធយោធា និងការលុកលុយដោយយន្តហោះចម្បាំង បន្ទាប់ពីលោកស្រីបានបំពេញទស្សនកិច្ចទៅកាន់ កោះនេះ។ យោងតាមសារព័ត៌មាន CNN ចេញផ្សាយនៅថ្ងៃទី៥ ខែសីហា ឆ្នាំ២០២២ បានឱ្យដឹងថា ថ្លែងនៅក្នុង សន្និសីទសារព័ត៌មានក្នុងទីក្រុងតូក្យូ ប្រទេសជប៉ុន អំឡុងពេលនៃដំណើរទស្សនកិច្ចនៅតំបន់អាស៊ីរបស់ លោកស្រី, លោកស្រី Pelosi បាននិយាយថា ប្រទេសចិនបានស្វែងរកការផ្តាច់តៃវ៉ាន់ចេញពីសហគមន៍អន្តរជាតិ ប៉ុន្តែចិននឹងមិនអាចរារាំងមន្ត្រីសហរដ្ឋអាមេរិកពីការធ្វើដំណើរនៅទីនោះទេ (កោះតៃវ៉ាន់)។⁴⁵

៣.២.២ ចំណុចអវិជ្ជមាន

ដ្បិតកោះតៃវ៉ាន់មានភាពគ្រប់គ្រាន់ដែលជាគុណសម្បត្តិឬជាចំណុចវិជ្ជមានក្តី តែមានបញ្ហាជាច្រើនស្ថិត ក្នុងចំណុចអវិជ្ជមានរវាងកោះតៃវ៉ាន់ក្នុងការទទួលស្គាល់រដ្ឋក្នុងនីតិអន្តរជាតិ។

៣.២.២.១ សមត្ថភាពក្នុងការកសាងទំនាក់ទំនងជាមួយរដ្ឋដទៃ

ពាក្យថា អធិបតេយ្យរដ្ឋ គឺជាគោលការណ៍របស់រដ្ឋមួយដែលមិនមានការស្ថិតនៅក្រោមអាជ្ញាធរថ្នាក់លើ ណាមួយឡើយ ពោលគឺជាអំណាចផុតលេខរបស់រដ្ឋមួយ ក្នុងការអនុវត្តអំណាចរបស់ខ្លួន រួមមានអំណាចនីតិ

⁴⁴ គេហទំព័រ៖ <https://m.freshnewsasia.com/index.php/en/internationalnews/285957-2023-04-09-02-53-57.html> ចូលមើលចុង ក្រោយ ថ្ងៃទី៣០ ខែមិថុនា ឆ្នាំ២០២៣។

⁴⁵ គេហទំព័រ៖ <https://dap-news.com/international/2022/08/05/268438/> ចូលមើលចុងក្រោយ ថ្ងៃទី៣០ ខែមិថុនា ឆ្នាំ២០២៣។

បុព្វត្តិ អំណាចនីតិប្រតិបត្តិ និងអំណាចតុលាការ ដែលជាអំណាចធំរបស់រដ្ឋមួយ។ ការសម្គាល់នូវអធិបតេយ្យ របស់រដ្ឋមួយបាន ពោលគឺគេពិនិត្យលើភាពឯករាជ្យជាតិរបស់រដ្ឋនោះផងដែរ។

បើទោះបីជាគោលការណ៍ទាំងអស់នេះពេញលេញយ៉ាងណាក៏ដោយ ភាពឯករាជ្យនៃប្រទេសមួយឬរដ្ឋមួយ ដែលមានអធិបតេយ្យពេញលេញ គឺមិនត្រូវបានបាត់បង់នោះឡើយ។ ឯករាជ្យ ដែលលើកយកមកនិយាយនេះគឺ សំដៅលើអំណាចដែលមិនស្ថិតក្រោមបញ្ជារបស់គេ តែមិនមែនមានន័យថា មិនអាស្រ័យជាមួយគេនោះទេ ព្រោះថារដ្ឋទាំងអស់ត្រូវតែមានការប្រាស្រ័យទាក់ទងជាមួយគ្នាទៅវិញទៅមក។ រដ្ឋមួយមានឯករាជ្យ នោះទើប មានអធិបតេយ្យពេញ។

ចំពោះបញ្ហាអធិបតេយ្យ និងឯករាជ្យរបស់កោះតៃវ៉ាន់ បើពិនិត្យមួយភ្លែតទៅហាក់បីដូចជាពេញលេញ តែ បើពិនិត្យនិងសិក្សាឱ្យស៊ីជម្រៅហាក់ដូចជាខ្វះនូវឯករាជ្យភាព ពិសេសពុំស្របនឹងចំណុចទី៣នោះឡើយដែលថា ជាកត្តាសមត្ថកិច្ចក្នុងការកសាងទំនាក់ទំនងជាមួយរដ្ឋដទៃ។ ការកំណត់ថាកោះតៃវ៉ាន់ពុំមានឯករាជ្យភាព ឬពុំ មានជាសមត្ថកិច្ចនៃការកសាងទំនាក់ទំនងរដ្ឋដទៃនោះ យើងពុំអាចកំណត់ដោយការនិយាយដោយម៉ាត់ទទេ ឬ ជាបញ្ហាផ្សេងៗនោះទេ។ ដ្បិតថាវាជារឿងភូមិសាស្ត្រនយោបាយ ផលប្រយោជន៍ ឬជាទំនាក់ទំនងបែបអន្តរជាតិ ក៏ពិតមែន តែកត្តាទំនាក់ទំនងអន្តរជាតិនោះត្រូវកំណត់ទៅក្នុងចំណុចនេះ និងក៏ជាកត្តាដែលត្រូវសិក្សាអំពីច្បាប់ អន្តរជាតិដូចគ្នា។

៣.២.២.២ ករណីនៃការទទួលស្គាល់សាធារណរដ្ឋប្រជាមានិតចិន

ករណីដែលសាធារណរដ្ឋប្រជាមានិតចិន សុំចូលជាសមាជិករបស់អង្គការសហប្រជាជាតិនៅក្នុងកំឡុង ឆ្នាំ១៩៥០ នៅពេលដែលសាធារណរដ្ឋប្រជាមានិតចិនមិនទាន់បានការទទួលស្គាល់ពីសំណាក់សហរដ្ឋអាមេរិក ពីព្រោះសហរដ្ឋអាមេរិកទទួលស្គាល់ចិនតៃវ៉ាន់ នៅក្នុងទំនាក់ទំនងខាងការទូត។ លោកអគ្គលេខាធិការអង្គការ សហប្រជាជាតិ Trygve Lie⁴⁶ នៅក្នុងអនុស្សរណៈមួយ ធ្វើទៅកាន់ប្រធានក្រុមប្រឹក្សាសន្តិសុខនៃអង្គការសហ ប្រជាជាតិ នៅថ្ងៃទី០៨ ខែមីនា ឆ្នាំ១៩៥០ បានកត់សំគាល់ថា សមាជិករបស់អង្គការសហប្រជាជាតិនឹងបោះឆ្នោត ដោយត្រឹមត្រូវដើម្បីទទួលយកនូវតំណាងនៃរដ្ឋមួយដែលមិនបានទទួលស្គាល់ ឬមិនមានទំនាក់ទំនងការទូតអ្វី ទាំងអស់ហើយការឆ្នោតសម្រេចរបៀបនេះមិនផ្សារភ្ជាប់ទៅនឹងការទទួលស្គាល់ ឬនៅលើទំនាក់ទំនងការទូត ដែលបានរួចទៅហើយដែរ។ មកដល់ឆ្នាំ១៩៥០ ក្រសួងការបរទេសសហរដ្ឋអាមេរិកបានកំណត់គោលនយោបាយ របស់សហរដ្ឋអាមេរិក ដើម្បីទទួលស្គាល់រដ្ឋ និងរដ្ឋាភិបាលមួយទៅតាមនីតិវិធីដូចតទៅ៖⁴⁷

⁴⁶ លោក Trygve Lie ជាអគ្គលេខាធិការអង្គការសហប្រជាជាតិលើកទីមួយ ដែលបានចូលកាន់តំណែង ពីថ្ងៃទី០១ ខែកុម្ភៈ ឆ្នាំ១៩៤៦ ដល់ថ្ងៃទី១០ ខែមេសា ឆ្នាំ១៩៥៣។

⁴⁷ ខៀវ ថារិកា, *នីតិអន្តរជាតិសាធារណៈ: Public International Law ភាគទី១* (ឆ្នាំ២០១០)

ទី១ ការសម្រេចថា ដើម្បីនឹងទទួលស្គាល់របបថ្មីមួយក្នុងឋានៈជាអាជ្ញាភិបាលរបស់ប្រទេសមួយ គឺត្រូវធ្វើឡើងដោយគិតទៅដល់ផលប្រយោជន៍ជាតិដ៏ពិសេសរបស់សហរដ្ឋអាមេរិក។ រាល់កាលៈទេសៈនីមួយៗនៃការទទួលស្គាល់ ឬមិនទទួលស្គាល់ គឺអាស្រ័យបិតនៅលើកត្តាជាក់ស្តែង និងកត្តានយោបាយនានា។ នៅក្នុងច្បាប់របស់ព្រឹទ្ធសភា (the Senate Act) នាខែកញ្ញា ឆ្នាំ១៩៦៩ ការទទួលស្គាល់ពីសំណាក់សហរដ្ឋអាមេរិក ចំពោះរដ្ឋណាមួយត្រូវតែគិតគូរទៅដល់ផលប្រយោជន៍របស់ជាតិ។

ទី២ ជាទម្លាប់ សហរដ្ឋអាមេរិកមានចរិតលក្ខណវិនិច្ឆ័យ ៣យ៉ាង សម្រាប់ការទទួលស្គាល់ ឬប្រឆាំងនឹងការទទួលស្គាល់អាជ្ញាភិបាលណាមួយ៖⁴⁸

- ក. វិសាលភាពនៃប្រសិទ្ធភាពចំពោះការគ្រប់គ្រងទឹកដី និងការគ្រប់គ្រងរដ្ឋបាលរបស់រដ្ឋមួយ
- ខ. វិសាលភាពនៃការទទួលយកជាសាធារណៈនៅក្នុងការគ្រប់គ្រងអំណាច
- គ. រដ្ឋាភិបាលនោះយកចិត្តទុកដាក់គោរពនូវកាតព្វកិច្ចអន្តរជាតិដោយពេញលេញ និងជំហររបស់រដ្ឋាភិបាលនោះសំដៅឆ្ពោះមកសហរដ្ឋអាមេរិក។

ទី៣ ចាប់តាំងពីឆ្នាំ១៩៦៥មក សហរដ្ឋអាមេរិកបានខិតខំជៀសវាងធ្វើសេចក្តីប្រកាស ទទួលស្គាល់រដ្ឋាភិបាលណាដែលកើតចេញមកពីរដ្ឋប្រហារ ឬពីការបដិវត្តផ្លាស់ប្តូរសង្គមផ្សេងៗ។

៣.២.២.៣ ភាពអនិច្ចមានដ៏មិនបំផុតនៃស្ថានភាពនយោបាយ

ស្ថានភាពនយោបាយរបស់កោះតៃវ៉ាន់គឺនូវមានវិវាទច្រើន។ សាធារណរដ្ឋចិនបានបាត់បង់ឈ្មោះជាដ្ឋតំណាងប្រទេសចិននៅអង្គការសហប្រជាជាតិក្នុងឆ្នាំ១៩៧១ បន្ទាប់ពីប្រជាជាតិលើពិភពលោកភាគច្រើនបានបោះឆ្នោតទទួលស្គាល់សាធារណរដ្ឋប្រជាមានិតចិន។ ចាប់តាំងពីពេលនោះមក សាធារណរដ្ឋចិនតែងតែអះអាងខ្លួនថាជាអាជ្ញាភិបាលស្របច្បាប់នៃប្រជាជាតិចិនទាំងមូល។ ចំណែកឯសាធារណរដ្ឋប្រជាមានិតចិនវិញបានអះអាងថាកោះតៃវ៉ាន់គឺជាទឹកដីរបស់ខ្លួនហើយនឹងមិនព្រមបង្កើតទំនាក់ទំនងការទូតជាមួយរដ្ឋប្រទេសណាដែលទទួលស្គាល់តៃវ៉ាន់ឡើយ។ តៃវ៉ាន់បានរក្សាទំនាក់ទំនងការទូតផ្លូវការជាមួយរដ្ឋចំនួន ១៥ នៅក្នុងចំណោមរដ្ឋជាសមាជិកអង្គការសហប្រជាជាតិសរុបចំនួន ១៩៣ ខណៈដែលប្រទេសជាច្រើនផ្សេងៗទៀតបានរក្សាទំនាក់ទំនងការទូតក្រៅផ្លូវការជាមួយតៃវ៉ាន់តាមរយៈការិយាល័យតំណាងនិងស្ថាប័នដែលដើរតួនាទីជាស្ថានទូតនិងស្ថានកុងស៊ុល។ នៅក្នុងអង្គការអន្តរជាតិដែលមានសាធារណរដ្ឋប្រជាមានិតចិន ជាសមាជិក តៃវ៉ាន់ត្រូវបានគេបដិសេធសមាជិកភាពជារឿយៗ ឬអនុញ្ញាតឱ្យខ្លួនចូលរួមតែក្នុងលក្ខខណ្ឌមិនមែនរដ្ឋក្រោមឈ្មោះផ្សេងៗ។

⁴⁸ ខៀវ ថារិកា, *នីតិអន្តរជាតិសាធារណៈ: Public International Law ភាគទី១* (ឆ្នាំ២០១០)

តាមការសិក្សាស្រាវជ្រាវផងដែរក៏មានការលើកឡើងដោយការស្រាវជ្រាវរបស់ Blog ipleaders បានសរសេរ ថា៖

ប្រទេសចំនួន ១៥ បានទទួលស្គាល់តៃវ៉ាន់ថាជាជនរដ្ឋមួយនៅទូទាំងពិភពលោក។ តៃវ៉ាន់ ត្រូវបានគេ ស្គាល់ជាផ្លូវការថាជាសាធារណរដ្ឋចិន និងត្រូវបានទទួលស្គាល់ដោយរដ្ឋជាសមាជិក 19 នៃអង្គការសហ ប្រជាជាតិ។ ប្រទេសផ្សេងទៀតមានទំនាក់ទំនងអាជីវកម្មជាមួយតៃវ៉ាន់ ប៉ុន្តែពួកគេមិនទទួលរងវាថាជា រដ្ឋមួយទេ។ តៃវ៉ាន់រក្សាទំនាក់ទំនងការទូតដោយគ្មានប្រសិទ្ធិភាពជាមួយសមាជិកអង្គ ការសហប្រជាជាតិ ចំនួន 57 នាក់ ផ្សេងទៀត។

ក្នុងកំឡុងពេលថ្មីៗនេះ ក្នុងចំណោមប្រទេសចំនួន១៥ ដែលបានទទួលស្គាល់តៃវ៉ាន់ថាជារដ្ឋ ត្រូវបាន ប្រទេសចំនួន២ទៀត ពោលគឺប្រទេសនីកាវ៉ាហ្គា នៅឆ្នាំ២០២១⁴⁹ និងប្រទេសហុងឌូរ៉ាស នៅឆ្នាំ២០២៣⁵⁰ បាន ផ្តាច់ទំនាក់ទំនងជាផ្លូវការជាមួយកោះតៃវ៉ាន់នឹងងាកមករកគោលការណ៍ចិនតែមួយវិញ។ គិតត្រឹមឆ្នាំ២០២៣ នេះកោះតៃវ៉ាន់មានត្រឹមតែប្រទេសចំនួន១៣ប៉ុណ្ណោះដែលមានទំនាក់ទំនងការទូតជាផ្លូវការជាមួយខ្លួន។

⁴⁹ គេហទំព័រ៖ <https://www.theaustralian.com.au/world/nicaragua-switches-diplomatic-recognition-from-taiwan-to-china/news-story/3da67f9355f300dd2952970e32360a57> ចូលមើលចុងក្រោយ ថ្ងៃទី០៧ ខែកក្កដា ឆ្នាំ២០២៣។

⁵⁰ គេហទំព័រ៖ <https://edition.cnn.com/2023/03/14/asia/honduras-diplomatic-relations-china-taiwan-intl-hnk/index.html> ចូល មើលចុងក្រោយ ថ្ងៃទី០៧ ខែកក្កដា ឆ្នាំ២០២៣។

សេចក្តីសង្ឃឹម

សេចក្តីសន្និដ្ឋាន

បន្ទាប់ពីបានសិក្សាលើប្រធានបទ «ការទទួលស្គាល់រដ្ឋ៖ ករណីកោះតៃវ៉ាន់» យើងសង្កេតឃើញថា ស្ថិតក្នុងការទទួលបានភាពជាដៃគូចាំបាច់ណាស់ត្រូវគោរពលក្ខខណ្ឌជាច្រើន ពិសេសលក្ខខណ្ឌទាំង៣ ពោលគឺ កត្តាប្រជាជន កត្តាទឹកដី និងកត្តាអ្នករាជការ ឱ្យបានពេញលេញ។ ដ្បិតមានប្រជាជនជាជាតិសាសន៍របស់ខ្លួនផ្ទាល់ក្តី តែកត្តាទឹកដី ជាកត្តាចាំបាច់បំផុតដែលត្រូវស្ថិតនៅជាឯករាជ្យភាព ពុំមានការគ្រប់គ្រង ឬការបញ្ចូលដែនដី អធិបតេយ្យរបស់ខ្លួនស្ថិតក្នុងការគ្រប់គ្រងរបស់ប្រទេសណាមួយឡើយ។ លើសពីនេះទៅទៀត កត្តាអ្នករាជការ ផងនោះ ពុំមែនមានត្រឹមស្ថាប័នគ្រប់គ្រងតែប៉ុណ្ណោះនោះទេ ពោលគឺត្រូវមានការទំនាក់ទំនងការទូតជាមួយ បណ្តាប្រទេសផ្សេងៗជាច្រើនទៀតលើឆាកអន្តរជាតិ ពុំមែនត្រឹមតែមួយក្តាប់តូច។

ចំពោះឆាកអន្តរជាតិផងដែរ ចាំបាច់ណាស់ក្នុងការចូលខ្លួនក្លាយជាសមាជិកនៃអង្គការនានា ពិសេសការ ទទួលស្គាល់ជាសកល ទោះក្នុងអង្គការអន្តរជាតិក្តី ក្នុងអង្គការក្នុងតំបន់ក្តី។

ដោយមើលឃើញនូវផលវិបាកទាំងនេះ ក៏ដូចជាភាពអវិជ្ជមានទាំងអស់នេះ ស្ថានភាពតៃវ៉ាន់នៅពុំទាន់ អាចទៅរួចក្នុងការក្លាយខ្លួនទៅជាកោះឯករាជ្យពេញលេញ ឬភាពជាដៃគូពេញលេញ។ ស្ថិតក្នុងស្ថានភាពបច្ចុប្បន្ន ស្របតាមគោលការណ៍ចិនតែមួយត្រូវបានទទួលស្គាល់ដោយប្រទេសជាច្រើន ស្របពេលការទូតជាមួយកោះតៃវ៉ាន់ និងបណ្តាប្រទេសផ្សេងៗមានលក្ខណៈបន្តិចបន្តួចនិងស្ថិតនៅក្នុងទំនាក់ទំនងជាលក្ខណៈសេដ្ឋកិច្ច ឬហៅមួយ បែបទៀតថាជាផលប្រយោជន៍ប៉ុណ្ណោះ។ ដ្បិតសហរដ្ឋអាមេរិក ជាញឹកញយ គេឃើញមានការជួយតាមបែបយោធាក្តី ជាមួយប្រទេសជាសម្ព័ន្ធមិត្តក្តី គឺដើម្បីរារាំងមិនឱ្យចិនមានអំណាចកាន់តែខ្លាំងនៅក្នុងតំបន់ក៏ដូចជាពិភពលោក ប៉ុណ្ណោះ។ តែមែនទែនទៅប្រទេសធំៗទាំងអស់ក្នុងពិភពលោកពុំមានការគាំទ្រឯណា ឬជាសកម្មភាពណាក្នុង ការទទួលស្គាល់កោះតៃវ៉ាន់ជាដៃគូឯករាជ្យនោះឡើយ។ ពិសេសក្នុងអង្គការសហប្រជាជាតិក៏ដូចគ្នា។

ចំពោះកត្តាជាតិកោះតៃវ៉ាន់ឯណោះវិញ ក៏ពុំទាន់មានភាពម្ចាស់ការលើខ្លួនឯងក្នុងការប្រកាសឯករាជ្យ ដោយមើលឃើញអំពីជំហានច្បាស់លាស់ របស់សហរដ្ឋអាមេរិក ដែលជាប្រហារអំណាចដ៏ធំមួយក្នុងពិភពលោក។ រីឯរដ្ឋធម្មនុញ្ញឯណោះវិញ តៃវ៉ាន់ពុំបានប្រកាសជាផ្លូវការនៅឡើយអំពីច្បាប់របស់ខ្លួន ប៉ុន្តែបែរជាមាននូវការបញ្ជូន ដែនកោះនៃកោះតៃវ៉ាន់ទៅក្នុងរដ្ឋធម្មនុញ្ញរបស់ប្រទេសចិន ស្របពេលពិភពលោកទទួលស្គាល់អំពីគោលការណ៍ ចិនតែមួយផងដែរ។

អនុសាសន៍

អនុសាសន៍

ទន្ទឹមនឹងការលើកឡើងជាច្រើនអំពីកត្តាវិជ្ជមានរបស់កោះតៃវ៉ាន់ យើងក៏សង្កេតឃើញនូវភាពអវិជ្ជមាន មួយចំនួនកើតចេញពីភាគីចិន ដែលតែងតែប្រើប្រាស់នូវកម្លាំងយោធា គម្រាមកំហែងដល់ដែនកោះតៃវ៉ាន់ ទោះពុំ បង្កជាសង្គ្រាមក្តី តែជាការឆ្លុះបញ្ចាំងអំពីការប៉ុនប៉ងឈ្លានពាន ដែលធ្វើឱ្យពិភពលោកពុំមានការពេញចិត្ត និង ទទួលបានជោគជ័យឱ្យមានការសម្របសម្រួលគ្នា។

ចំពោះភាគីសហរដ្ឋអាមេរិកឯណោះវិញក៏ពុំត្រូវប្រើកម្លាំងយោធា ឬការញុះញង់ឱ្យមានការបែកបាក់តាមរយៈ ពាក្យសំដីក្តី ឬសកម្មផ្សេងៗដែលប្រឆាំងនឹងចិននោះឡើយស្របពេលដែលខ្លួនកំពុងតែឯកភាពលើគោលការណ៍ ចិនតែមួយ។ សហរដ្ឋអាមេរិកចាំបាច់ត្រូវតែដើរតួជាដៃគូសម្របសម្រួលចំពោះមុខស្ថានភាពប្រសើរជាងការ ធ្វើនយោបាយផ្សេងៗនាំឱ្យមានការភ័នច្រឡំកើតមានឡើងរហូតបង្កទៅជាសង្គ្រាម។ លើសពីការសម្របសម្រួល សហរដ្ឋអាមេរិកត្រូវតែគិតគូរអំពីបញ្ហាប្រឈម ជាងការគិតគូរអំពីផលប្រយោជន៍ខ្លួនតែមួយហើយធ្វើឱ្យប៉ះពាល់ ដល់សម្ព័ន្ធមិត្ត និងដៃគូផ្សេងៗ ជាពិសេសបញ្ហាទាំងឡាយអាចបង្កទៅជាសង្គ្រាមចំពោះពិភពលោក។

ជាមួយគ្នា ទោះបីស្ថិតក្នុងស្ថានភាពណាក្តី ភាគីចិនគួរតែមានការដោះស្រាយដោយសន្តិវិធី ឬដោយការ ទំនាក់ទំនងការទូត និងយកច្បាប់ជាតិក្តី ឬច្បាប់អន្តរជាតិ ជាគោល ពេលគឺបញ្ចៀសនូវសង្គ្រាមផង និងបញ្ជាក់ នូវការយកច្បាប់ជាតិ និងអន្តរជាតិ ជាគោលផង។ ពុំនោះទេ សង្គ្រាមមួយអាច បង្កើតទៅជាសង្គ្រាមពីរ ឬបី ឬច្រើន បន្តបន្ទាប់ ហើយបោះបង់នូវច្បាប់អន្តរជាតិ បង្កឱ្យពិភពលោកប្រែក្លាយទៅជាគ្មានសណ្តាប់ធ្នាប់។ ស្របគ្នានោះ ផងដែរ គ្រប់ភាគីទាំងអស់គួរតែរក្សាទុកនូវអ្វីដែលជាផលប្រយោជន៍រួម ពុំមែនជាផលប្រយោជន៍ផ្ទាល់ខ្លួននោះទេ។

ឯកសារយោង

ឯកសារយោង

ច្បាប់/បទដ្ឋានគតិយុត្ត ជាតិ

- រដ្ឋធម្មនុញ្ញប្រទេសចិន (Constitution of the People's Republic of China)
- ច្បាប់សញ្ញាភូមិប្រជាជាតិប្រជាជាតិ ដោយក្រសួងមហាផ្ទៃ ចុះថ្ងៃទី១៥ ខែ១២ ឆ្នាំ២០២១ (Taiwan Nationality Act, Category: Ministry of the Interior, Amended Date: 15/12/2021)

ច្បាប់/បទដ្ឋានគតិយុត្ត អន្តរជាតិ

- អនុសញ្ញា Montevideo Convention on the Rights and Duties of States
- កិច្ចព្រមព្រៀងទីក្រុងហ្សឺណែវ ស្តីពីការបញ្ចប់អវិស័យភាពនៅវៀតណាម ថ្ងៃទី២០ កក្កដា ឆ្នាំ១៩៥៤ (Geneva Agreements 20-21 July 1954, Agreement on the Cessation of Hostilities in Viet-Nam 20 July 1954)
- មហាសន្និបាតអង្គការសហប្រជាជាតិ លើកទី២៦ ស្តីពីការស្តារឡើងវិញនូវសិទ្ធិស្របច្បាប់នៃសាធារណរដ្ឋប្រជាមានិតចិននៅក្នុងអង្គការសហប្រជាជាតិ General Assembly-Tweety-sixth Session of Restoration of the lawful rights of the People's Republic of China in the United Nations

អត្ថបទ/សៀវភៅ (ជាភាសាខ្មែរ)

- ហ្សង់-ហ្សង់ស័រ តាន់, មហាយក្សចិន ភូមិសាស្ត្រនយោបាយនៃប្រទេសចិន។
- ហ្សង់-ហ្សង់ស័រ តាន់, ចម្បាំងត្រជាក់រវាងអាមេរិកនិងចិន ភូមិសាស្ត្រនយោបាយអាស៊ីអាគ្នេយ៍។
- អ៊ីង រដ្ឋា, នីតិអន្តរជាតិសាធារណៈ: Public International Law, បោះពុម្ពលើកទី៨ ឆ្នាំ២០១៨។
- ខៀវ ថារិកា, នីតិអន្តរជាតិសាធារណៈ: Public International Law ភាគទី១, បោះពុម្ពនៅភ្នំពេញ ឆ្នាំ២០១០។
- នួន សុផិមន្ត, នីតិអន្តរជាតិសាធារណៈ: Public International Law។
- ខៀវ ពិដោរ, មេរៀន នីតិសាធារណៈ: ទ្រឹស្តី នីតិអន្តរជាតិសាធារណៈ, បោះពុម្ពលើកទី១ នៅឆ្នាំ២០១១។
- មាស ប៊ូរ៉ា, នីតិអន្តរជាតិសាធារណៈ, បោះពុម្ព ឆ្នាំ២០១៣។
- ចាន់ ជារិទ្ធ, ទំនាក់ទំនងអន្តរជាតិ, បោះពុម្ព ឆ្នាំ២០១៥។
- អ៊ីង រដ្ឋា, នីតិអន្តរជាតិសាធារណៈ, បោះពុម្ពលើកទី៦(ភ្នំពេញ, ២០១២)។
- ដុំ អ៊ឹម, ទំនាក់ទំនងអន្តរជាតិ, បោះពុម្ពលើកទី២(ភ្នំពេញ ៖ រោងពុម្ពផ្សាយជ័យ, ២០១១)។
- ខៀវ ថារិកា, នីតិអន្តរជាតិសាធារណៈ, បោះពុម្ពលើកទី១(ភ្នំពេញ ៖ គីម ស្អាត, ២០១០)។

គេហទំព័រ (ស្ថាប័នជាតិ)

- គេហទំព័រ ក្រុមប្រឹក្សារដ្ឋនៃសាធារណរដ្ឋប្រជាមានិតចិន (The State Council of the People's Republic of China) <http://english.www.gov.cn/>
- គេហទំព័រ មូលដ្ឋានទិន្នន័យច្បាប់ និងបទប្បញ្ញត្តិនៃសាធារណរដ្ឋចិន (Law & Regulations Database of The Republic of China) <https://law.moj.gov.tw/ENG/Index.aspx>

- គេហទំព័រ <https://www.taiwan.gov.tw/index.php/>

- គេហទំព័រ <https://www.boca.gov.tw/mp-2.html>

គេហទំព័រ (ក្រៅពីស្ថាប័នជាតិ)

- គេហទំព័រ UNIVERSITY OF OSLO <https://www.uio.no/english/>
- គេហទំព័រ <https://blog.ipleaders.in/state-recognition/>
- គេហទំព័រ <https://vatican-city-tickets.com/km/>
- គេហទំព័រ <https://km.eferrit.com/>
- គេហទំព័រ 1914-1918-Online <https://encyclopedia.1914-1918-online.net/home/>
- គេហទំព័រ Britannica <https://www.britannica.com>
- គេហទំព័រ United Nations Digital Library <https://digitallibrary.un.org/?ln=en>

គេហទំព័រ (សារព័ត៌មានជាតិ និងអន្តរជាតិ)

- ភ្នាក់ងារសារព័ត៌មាន Reuter <https://www.reuters.com/>
- គេហទំព័រសារព័ត៌មាន Fresh News <https://www.freshnewsasia.com/index.php/en/>
- គេហទំព័រសារព័ត៌មាន ដើមអម្ពិល <https://dap-news.com>
- គេហទំព័រសារព័ត៌មាន CNN Breaking News <https://edition.cnn.com/world>
- គេហទំព័រសារព័ត៌មាន The Weekend Australian <https://www.theaustralian.com.au>

အပူပူပူ

បញ្ជីឧបសម្ព័ន្ធ



១. រដ្ឋធម្មនុញ្ញប្រទេសចិន Constitution of the People's Republic of China
២. អនុសញ្ញា ទីក្រុងម៉ុងតេវីដេអូ ស្តីពី សិទ្ធិ និង ករណីកិច្ចរបស់រដ្ឋ
៣. កិច្ចព្រមព្រៀងទីក្រុងហ្សឺណែវ (ថ្ងៃទី២០-២១ ខែកក្កដា ឆ្នាំ១៩៥៤)
៤. MOFA to release new version of e-passport as of January 11, 2021 (Press Release no. 283)
៥. មហាសន្និបាតអង្គការសហប្រជាជាតិ United Nations General Assembly Twenty-sixth session

ឧបសម្ព័ន្ធទី១

រដ្ឋធម្មនុញ្ញប្រទេសចិន

Constitution of the People's Republic of China



Constitution of the People's Republic of China

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Constitution of the People's Republic of China

(Adopted at the Fifth Session of the Fifth National People's Congress and promulgated by the Announcement of the National People's Congress on December 4, 1982; amended in accordance with the *Amendment to the Constitution of the People's Republic of China* adopted at the First Session of the Seventh National People's Congress on April 12, 1988, the *Amendment to the Constitution of the People's Republic of China* adopted at the First Session of the Eighth National People's Congress on March 29, 1993, the *Amendment to the Constitution of the People's Republic of China* adopted at the Second Session of the Ninth National People's Congress on March 15, 1999, the *Amendment to the Constitution of the People's Republic of China* adopted at the Second Session of the Tenth National People's Congress on March 14, 2004, and the *Amendment to the Constitution of the People's Republic of China* adopted at the First Session of the Thirteenth National People's Congress on March 11, 2018)

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Preamble

China is one of the countries with the longest histories in the world. The Chinese people of all ethnic groups jointly created its magnificent culture and have a proud revolutionary tradition.

After 1840, feudal China gradually became a semi-colonial, semi-feudal country. The Chinese people, wave upon wave, waged heroic struggles for national independence and liberation and for democracy and freedom.

In the 20th century, momentous historical changes took place in China.

The Revolution of 1911, led by Dr. Sun Yat-sen, abolished the feudal monarchy and gave birth to the Republic of China. However, the historic mission of the Chinese people to oppose imperialism and feudalism was not yet accomplished.

In 1949, after engaging in protracted, arduous and tortuous struggles, armed and in other forms, the Chinese people of all ethnic groups led by the Communist Party of China with Chairman Mao Zedong as its leader finally overthrew the rule of imperialism, feudalism and bureaucrat-capitalism, won a great victory in the New Democratic Revolution, and founded the People's Republic of China. The Chinese people thus secured power and became masters of their own country.

After the founding of the People's Republic of China, our country gradually achieved the transition from a new democratic society to a socialist society. The socialist transformation of private ownership of the means of production has been completed, the system of exploitation of man by man abolished, and a socialist system established. The people's democratic dictatorship led by the working class and based on an alliance of workers and peasants, which in essence is a dictatorship of the proletariat, has been consolidated and developed. The Chinese people and the Chinese People's Liberation Army have defeated imperialist and hegemonist aggression, sabotage and armed provocations, safeguarded national independence and security, and strengthened national defense. Major achievements have been made in economic development. An independent and relatively complete socialist industrial system has now basically been established, and agricultural output has markedly increased. Significant advances have been made in education, science, culture and other fields, and education about socialist thought has made notable progress. The lives of the people have been considerably improved.

Both the victory in China's New Democratic Revolution and the successes in its socialist cause have been achieved by the Chinese people of all ethnic groups under the leadership of the Communist Party of China and the guidance of Marxism-Leninism and Mao Zedong Thought by upholding truth, correcting errors, and surmounting many difficulties and obstacles. Our country will long remain in the primary stage of socialism. The fundamental task for our country is to concentrate on achieving socialist modernization along the road of socialism with Chinese characteristics. We the Chinese people of all ethnic groups will continue, under the leadership of the Communist Party of China and the guidance of Marxism-Leninism, Mao Zedong Thought, Deng Xiaoping Theory, the Theory of Three Represents, the Scientific Outlook on Development and Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, to uphold the people's democratic dictatorship, stay on the socialist road, carry out reform and opening up, steadily improve the socialist institutions, develop the socialist market economy and socialist democracy, improve socialist rule of law, apply the new development philosophy, and work hard in a spirit of self-reliance to modernize step by step the country's industry, agriculture, national defense, and science and technology and promote coordinated material, political, cultural-ethical, social and ecological advancement, in order to build China into a great modern socialist country that is prosperous, strong, democratic, culturally advanced, harmonious and beautiful, and realize the great rejuvenation of the Chinese nation.

In our country the exploiting class, as a class, has been eliminated, but class struggle will continue to exist within a certain scope for a long time to come. The people of China must fight against those domestic and foreign forces and elements that are hostile to and undermine our country's socialist system.

Taiwan is part of the sacred territory of the People's Republic of China. It is the sacred duty of all the Chinese people, including our fellow Chinese in Taiwan, to achieve the great reunification of the motherland.

The cause of building socialism must rely on workers, peasants and intellectuals and unite all forces that can be united. Through the long process of revolution, development and reform, a broad patriotic united front has formed under the

leadership of the Communist Party of China, with the participation of other political parties and people's organizations and including all socialist working people, people involved in building socialism, patriots who support socialism, and patriots who support China's reunification and are dedicated to the rejuvenation of the Chinese nation. This united front will continue to be consolidated and developed. The Chinese People's Political Consultative Conference is a broadly representative organization of the united front, and has played a significant historical role. In the future, it will play an even more important role in the country's political and social life and its friendly foreign activities, in socialist modernization and in safeguarding the unity and solidarity of the country. The system of multiparty cooperation and political consultation under the leadership of the Communist Party of China will continue and develop long into the future.

The People's Republic of China is a unified multiethnic state founded by the Chinese people of all ethnic groups. Socialist ethnic relations of equality, unity, mutual assistance and harmony are established and will continue to be strengthened. In the struggle to safeguard ethnic unity, we should oppose major ethnic group chauvinism, which mainly refers to Han chauvinism, and local ethnic chauvinism. The state makes every effort to promote the shared prosperity of all the country's ethnic groups.

The achievements of China's revolution, development and reform would have been impossible without the support of the world's people. The future of China is closely bound up with the future of the world. China pursues an independent foreign policy, observes the five principles of mutual respect for sovereignty and territorial integrity, mutual nonaggression, mutual noninterference in internal affairs, equality and mutual benefit, and peaceful coexistence, keeps to a path of peaceful development, follows a mutually beneficial strategy of opening up, works to develop diplomatic relations and economic and cultural exchanges with other countries, and promotes the building of a human community with a shared future. China consistently opposes imperialism, hegemonism and colonialism, works to strengthen its solidarity with the people of all other countries, supports oppressed peoples and other developing countries in their just struggles to win and safeguard their independence and develop their economies, and strives to safeguard world peace and promote the cause of human progress.

This Constitution affirms, in legal form, the achievements of the struggles of the Chinese people of all ethnic groups and stipulates the fundamental system and task of the state. It is the fundamental law of the state and has supreme legal force. The people of all ethnic groups, all state organs and armed forces, all political parties and social organizations, and all enterprises and public institutions in the country must treat the Constitution as the fundamental standard of conduct; they have a duty to uphold the sanctity of the Constitution and ensure its compliance.

Chapter I

General Principles

Article 1 The People's Republic of China is a socialist state governed by a people's democratic dictatorship that is led by the working class and based on an alliance of workers and peasants.

The socialist system is the fundamental system of the People's Republic of China. Leadership by the Communist Party of China is the defining feature of socialism with Chinese characteristics. It is prohibited for any organization or individual to damage the socialist system.

Article 2 All power in the People's Republic of China belongs to the people.

The organs through which the people exercise state power are the National People's Congress and the local people's congresses at all levels.

The people shall, in accordance with the provisions of law, manage state affairs, economic and cultural undertakings, and social affairs through various channels and in various ways.

Article 3 The state institutions of the People's Republic of China shall practice the principle of democratic centralism.

The National People's Congress and the local people's congresses at all levels shall be created through democratic election and

shall be responsible to the people and subject to their oversight.

All administrative, supervisory, adjudicatory and procuratorial organs of the state shall be created by the people's congresses and shall be responsible to them and subject to their oversight.

The division of functions and powers between the central and local state institutions shall honor the principle of giving full play to the initiative and motivation of local authorities under the unified leadership of the central authorities.

Article 4 All ethnic groups of the People's Republic of China are equal. The state shall protect the lawful rights and interests of all ethnic minorities and uphold and promote relations of equality, unity, mutual assistance and harmony among all ethnic groups. Discrimination against and oppression of any ethnic group are prohibited; any act that undermines the unity of ethnic groups or creates divisions among them is prohibited.

The state shall, in light of the characteristics and needs of all ethnic minorities, assist all ethnic minority areas in accelerating their economic and cultural development.

All areas inhabited by ethnic minorities shall practice regional autonomy, establish autonomous organs, and exercise the power to self-govern. All ethnic autonomous areas are inseparable parts of the People's Republic of China.

All ethnic groups shall have the freedom to use and develop their own spoken and written languages and to preserve or reform their own traditions and customs.

Article 5 The People's Republic of China shall practice law-based governance and build a socialist state under the rule of law.

The state shall safeguard the unity and sanctity of the socialist legal system.

No law, administrative regulation or local regulation shall be in conflict with the Constitution.

All state organs and armed forces, all political parties and social organizations, and all enterprises and public institutions must abide by the Constitution and the law. Accountability must be enforced for all acts that violate the Constitution or laws.

No organization or individual shall have any privilege beyond the Constitution or the law.

Article 6 The foundation of the socialist economic system of the People's Republic of China is socialist public ownership of the means of production, that is, ownership by the whole people and collective ownership by the working people. The system of socialist public ownership has eradicated the system of exploitation of man by man, and practices the principle of "from each according to his ability, to each according to his work."

In the primary stage of socialism, the state shall uphold a fundamental economic system under which public ownership is the mainstay and diverse forms of ownership develop together, and shall uphold an income distribution system under which distribution according to work is the mainstay, while multiple forms of distribution exist alongside it.

Article 7 The state sector of the economy, that is, the sector of the socialist economy under ownership by the whole people, shall be the leading force in the economy. The state shall ensure the consolidation and development of the state sector of the economy.

Article 8 Rural collective economic organizations shall practice a two-tiered system of both unified and separate operations with household contract management as its basis. Rural economic cooperatives — producer, supply and marketing, credit and consumer cooperatives — are part of the socialist economy under collective ownership by the working people. Working people who belong to rural collective economic organizations shall have the right, within the scope prescribed by law, to farm cropland and hillsides allotted to them for their private use, engage in household sideline production, and raise privately owned livestock.

The various forms of cooperative economic activities in cities and towns, such as those in the handicraft, industrial, building, transport, commercial and service trades, shall all be part of the socialist economy under collective ownership by the working people.

The state shall protect the lawful rights and interests of urban and rural collective economic organizations and shall

encourage, guide and assist the growth of the collective sector of the economy.

Article 9 All mineral resources, waters, forests, mountains, grasslands, unreclaimed land, mudflats and other natural resources are owned by the state, that is, by the whole people, except for the forests, mountains, grasslands, unreclaimed land and mudflats that are owned by collectives as prescribed by law.

The state shall ensure the rational use of natural resources and protect rare animals and plants. It is prohibited for any organization or individual to seize or damage natural resources by any means.

Article 10 Land in cities is owned by the state.

Land in rural and suburban areas is owned by collectives except for that which belongs to the state as prescribed by law; housing sites and cropland and hillsides allotted for private use are also owned by collectives.

The state may, in order to meet the demands of the public interest and in accordance with the provisions of law, expropriate or requisition land and furnish compensation.

No organization or individual shall unlawfully transfer land through seizure, sale and purchase, or in any other form. Land-use rights may be transferred in accordance with the provisions of law.

All organizations and individuals using land must use it in an appropriate manner.

Article 11 Non-public economic sectors that are within the scope prescribed by law, such as individually owned and private businesses, are an important component of the socialist market economy.

The state shall protect the lawful rights and interests of non-public economic sectors such as individually owned and private businesses. The state shall encourage, support and guide the development of non-public economic sectors and exercise oversight and regulation over non-public economic sectors in accordance with law.

Article 12 Socialist public property is sacred and inviolable.

The state shall protect socialist public property. It is prohibited for any organization or individual to seize or damage state or collective property by any means.

Article 13 Citizens' lawful private property is inviolable.

The state shall protect the right of citizens to own and inherit private property in accordance with the provisions of law.

The state may, in order to meet the demands of the public interest and in accordance with the provisions of law, expropriate or requisition citizens' private property and furnish compensation.

Article 14 The state shall continually raise labor productivity and improve economic performance to develop productive forces by increasing working people's motivation and level of technical skill, promoting advanced science and technology, improving the systems of economic management and enterprise operation and management, practicing different forms of socialist responsibility system and improving the organization of work.

The state shall practice strict economy and combat waste.

The state shall appropriately handle accumulation and consumption, give due consideration at once to the interests of the state, collectives and individuals and, based on the development of production, gradually improve the material and cultural wellbeing of the people.

The state shall establish a sound social security system compatible with the level of economic development.

Article 15 The state shall practice a socialist market economy.

The state shall strengthen economic legislation and improve macro regulation.

The state shall, in accordance with law, prohibit disruption of the socioeconomic order by any organization or individual.

Article 16 State-owned enterprises shall, within the scope prescribed by law, have the right to operate autonomously.

State-owned enterprises shall, in accordance with the provisions of law, practice democratic management through employee congresses and other means.

Article 17 Collective economic organizations shall, on the condition that they abide by relevant laws, have the autonomy to independently conduct economic activities.

Collective economic organizations shall practice democratic management and shall, in accordance with the provisions of law, elect and remove their management personnel and decide on major issues concerning their operations and management.

Article 18 The People's Republic of China shall permit foreign enterprises, other economic organizations and individuals, to invest in China and to enter into various forms of economic cooperation with Chinese enterprises or other economic organizations in accordance with the provisions of law of the People's Republic of China.

All foreign enterprises, other foreign economic organizations and Chinese-foreign joint ventures in the territory of China shall abide by the law of the People's Republic of China. Their lawful rights and interests shall be protected by the law of the People's Republic of China.

Article 19 The state shall develop socialist education to raise the scientific and cultural level of the whole nation.

The state shall run schools of all types, provide universal compulsory primary education, develop secondary, vocational and higher education, and also develop preschool education.

The state shall develop different types of educational facilities, eliminate illiteracy, provide political, cultural, scientific, technical and field-specific education for workers, peasants, state employees and other working people, and encourage people to become accomplished individuals through self-study.

The state shall encourage collective economic organizations, state enterprises, public institutions and other social actors to run education programs of various types in accordance with the provisions of law.

The state shall promote the common speech — putonghua — used nationwide.

Article 20 The state shall develop the natural and social sciences, disseminate scientific and technological knowledge, and commend and award research achievements and technological discoveries and inventions.

Article 21 To protect the people's health, the state shall develop medical and health care, develop modern medicine and traditional Chinese medicine, encourage and support the running of various medical and health facilities by rural collective economic organizations, state enterprises, public institutions and neighborhood organizations, and promote public health activities.

To improve the people's physical fitness, the state shall develop sports and promote public sports activities.

Article 22 The state shall develop art and literature, the press, radio and television broadcasting, publishing, libraries, museums and cultural centers, and other cultural undertakings that serve the people and socialism; and shall promote public cultural activities.

The state shall protect places of scenic beauty and historical interest, valuable cultural relics and other forms of important historical and cultural heritage.

Article 23 The state shall train all kinds of specialized personnel to serve socialism, expand the ranks of intellectuals, and create the conditions for giving full play to their role in socialist modernization.

Article 24 The state shall promote socialist cultural-ethical advancement through widely accessible education on ideals, morality, culture, discipline and law, and through the formulation and observance of different forms of rules of conduct and public pledges among different urban and rural populations.

The state shall champion core socialist values; advocate the civic virtues of love for the motherland, for the people, for work,

for science and for socialism; educate the people in patriotism and collectivism, in internationalism and communism, and in dialectical and historical materialism; and combat capitalist, feudal and other forms of decadent thought.

Article 25 The state shall promote family planning to see that population growth is consistent with economic and social development plans.

Article 26 The state shall protect and improve living environments and the ecological environment, and prevent and control pollution and other public hazards.

The state shall organize and encourage afforestation and protect forests.

Article 27 All state organs shall practice the principle of lean and efficient administration, a work responsibility system, and a system of employee training and evaluation in order to keep improving the quality and efficiency of their work and combat bureaucratism.

All state organs and state employees must rely on the support of the people, stay engaged with them, listen to their opinions and suggestions, accept their oversight, and work hard to serve them.

State employees, when assuming office, should make a public pledge of allegiance to the Constitution in accordance with the provisions of law.

Article 28 The state shall maintain public order, suppress treason and other criminal activities that jeopardize national security, punish criminal activities, including those that endanger public security or harm the socialist economy, and punish and reform criminals.

Article 29 The armed forces of the People's Republic of China belong to the people. Their missions are to strengthen national defense, resist aggression, defend the motherland, safeguard the people's peaceful work, participate in national development, and work hard to serve the people.

The state shall make the armed forces more revolutionary, more modernized and better regulated in order to strengthen national defense capabilities.

Article 30 The administrative areas of the People's Republic of China shall be delineated as follows:

- (1) The country consists of provinces, autonomous regions and cities directly under central government jurisdiction;
- (2) Provinces and autonomous regions consist of autonomous prefectures, counties, autonomous counties and cities; and
- (3) Counties and autonomous counties consist of townships, ethnic townships and towns.

Cities directly under central government jurisdiction and other large cities consist of districts and counties. Autonomous prefectures consist of counties, autonomous counties and cities.

All autonomous regions, autonomous prefectures and autonomous counties are ethnic autonomous areas.

Article 31 The state may establish special administrative regions when necessary. The systems instituted in special administrative regions shall, in light of specific circumstances, be prescribed by laws enacted by the National People's Congress.

Article 32 The People's Republic of China shall protect the lawful rights and interests of foreigners in the territory of China; foreigners in the territory of China must abide by the law of the People's Republic of China.

The People's Republic of China may grant asylum to foreigners who request it on political grounds.

Chapter II

Fundamental Rights and Obligations of Citizens

Article 33 All persons holding the nationality of the People's Republic of China are citizens of the People's Republic of China.

All citizens of the People's Republic of China are equal before the law.

The state shall respect and protect human rights.

Every citizen shall enjoy the rights prescribed by the Constitution and the law and must fulfill the obligations prescribed by the Constitution and the law.

Article 34 All citizens of the People's Republic of China who have reached the age of 18, regardless of ethnicity, race, gender, occupation, family background, religious belief, level of education, property status or length of residence, shall have the right to vote and stand for election; persons deprived of political rights in accordance with law shall be an exception.

Article 35 Citizens of the People's Republic of China shall enjoy freedom of speech, the press, assembly, association, procession and demonstration.

Article 36 Citizens of the People's Republic of China shall enjoy freedom of religious belief.

No state organ, social organization or individual shall coerce citizens to believe in or not to believe in any religion, nor shall they discriminate against citizens who believe in or do not believe in any religion.

The state shall protect normal religious activities. No one shall use religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the state's education system.

Religious groups and religious affairs shall not be subject to control by foreign forces.

Article 37 The personal freedom of citizens of the People's Republic of China shall not be violated.

No citizen shall be arrested unless with the approval or by the decision of a people's procuratorate or by the decision of a people's court, and arrests must be made by a public security organ.

Unlawful detention, or the unlawful deprivation or restriction of a citizen's personal freedom by other means, is prohibited; the unlawful search of a citizen's person is prohibited.

Article 38 The personal dignity of citizens of the People's Republic of China shall not be violated. It is prohibited to use any means to insult, libel or falsely accuse citizens.

Article 39 The homes of citizens of the People's Republic of China are inviolable. The unlawful search of or unlawful intrusion into a citizen's home is prohibited.

Article 40 Freedom and confidentiality of correspondence of citizens of the People's Republic of China shall be protected by law. Except in cases necessary for national security or criminal investigation, when public security organs or procuratorial organs shall examine correspondence in accordance with procedures prescribed by law, no organization or individual shall infringe on a citizen's freedom and confidentiality of correspondence for any reason.

Article 41 Citizens of the People's Republic of China shall have the right to criticize and make suggestions regarding any state organ or state employee, and have the right to file with relevant state organs complaints, charges or reports against any state organ or state employee for violations of the law or dereliction of duty, but they shall not fabricate or distort facts to make false accusations.

The state organ concerned must ascertain the facts concerning the complaints, charges or reports made by citizens and take responsibility for their handling. No one shall suppress such complaints, charges or reports or take retaliatory action.

Persons who have suffered losses resulting from infringement of their civil rights by any state organ or state employee shall have the right to receive compensation in accordance with the provisions of law.

Article 42 Citizens of the People's Republic of China shall have the right and the obligation to work.

The state shall, in various ways, create employment opportunities, strengthen worker protections, improve working conditions and, based on the development of production, increase remuneration for work and work-related benefits.

Work is an honorable duty for every citizen who is able to work. All working people in state owned enterprises and in urban and rural collective economic organizations should approach their own work as masters of their country. The state shall encourage socialist work contests and commend and award model workers and advanced workers. The state shall encourage citizens to participate in voluntary work.

The state shall provide necessary pre-employment training for its citizens.

Article 43 Working people in the People's Republic of China shall have the right to rest.

The state shall develop rest and recuperation facilities for working people and stipulate systems for employee working hours and vacations.

Article 44 The state shall, in accordance with the provisions of law, implement a retirement system for employees of enterprises, public institutions and state organs. The livelihood of retirees shall be ensured by the state and society.

Article 45 Citizens of the People's Republic of China shall have the right to material assistance from the state and society when they are aged, ill or have lost the capacity to work. The state shall develop the social insurance, social relief, and medical and health services necessary for citizens to enjoy this right.

The state and society shall guarantee the livelihood of disabled military personnel, provide pensions to the families of martyrs, and give preferential treatment to the family members of military personnel.

The state and society shall assist arrangements for the work, livelihood and education of citizens who are blind, deaf, mute or have other disabilities.

Article 46 Citizens of the People's Republic of China shall have the right and the obligation to receive education.

The state shall foster the all-round moral, intellectual and physical development of young adults, youths and children.

Article 47 Citizens of the People's Republic of China shall enjoy the freedom to engage in scientific research, literary and artistic creation, and other cultural pursuits. The state shall encourage and assist creative work that is beneficial to the people of citizens engaged in education, science, technology, literature, art and other cultural activities.

Article 48 Women in the People's Republic of China shall enjoy equal rights with men in all spheres of life: political, economic, cultural, social and familial.

The state shall protect the rights and interests of women, implement a system of equal pay for equal work, and train and select female officials.

Article 49 Marriage, families, mothers and children shall be protected by the state.

Both husband and wife shall have the obligation to practice family planning.

Parents shall have the obligation to raise and educate their minor children; adult children shall have the obligation to support and assist their parents.

Infringement of the freedom of marriage is prohibited; mistreatment of senior citizens, women and children is prohibited.

Article 50 The People's Republic of China shall protect the legitimate rights and interests of Chinese nationals overseas as well as the lawful rights and interests of Chinese nationals who have returned from overseas and of the family members in China of Chinese nationals overseas.

Article 51 When exercising their freedoms and rights, citizens of the People's Republic of China shall not undermine the interests of the state, society or collectives, or infringe upon the lawful freedoms and rights of other citizens.

Article 52 Citizens of the People's Republic of China shall have the obligation to safeguard national unity and the solidarity

of all the country's ethnic groups.

Article 53 Citizens of the People's Republic of China must abide by the Constitution and the law, keep state secrets, protect public property, observe discipline in the workplace, observe public order, and respect social morality.

Article 54 Citizens of the People's Republic of China shall have the obligation to safeguard the security, honor and interests of the motherland; they must not behave in any way that endangers the motherland's security, honor or interests.

Article 55 It is the sacred duty of every citizen of the People's Republic of China to defend the motherland and resist aggression.

It is an honorable obligation of citizens of the People's Republic of China to perform military service or join the militia in accordance with law.

Article 56 Citizens of the People's Republic of China shall have the obligation to pay taxes in accordance with law.

Chapter III

State Institutions

Section 1

The National People's Congress

Article 57 The National People's Congress of the People's Republic of China is the highest state organ of power. Its permanent organ is the National People's Congress Standing Committee.

Article 58 The National People's Congress and the National People's Congress Standing Committee exercise the legislative power of the state.

Article 59 The National People's Congress shall be composed of deputies elected from the provinces, autonomous regions, cities directly under central government jurisdiction, special administrative regions and armed forces. All ethnic minorities should have an appropriate number of deputies.

The election of deputies to the National People's Congress shall be presided over by the National People's Congress Standing Committee.

The number of deputies to the National People's Congress and the procedures for their election shall be prescribed by law.

Article 60 Each National People's Congress shall have a term of five years.

The National People's Congress Standing Committee must complete the election of deputies to the next National People's Congress two months prior to the completion of the term of office of the current National People's Congress. If extraordinary circumstances prevent an election from going ahead, the election may be postponed and the term of office of the current National People's Congress may be extended by a resolution supported by at least two-thirds of the members of the current National People's Congress Standing Committee. The election of deputies to the next National People's Congress must be completed within one year of said extraordinary circumstances coming to an end.

Article 61 A session of the National People's Congress shall be held once every year and shall be convened by the National People's Congress Standing Committee. If the National People's Congress Standing Committee deems it necessary, or one-fifth or more of National People's Congress deputies so propose, a session of the National People's Congress may be convened in the interim.

When the National People's Congress holds a session, it shall elect a presidium to conduct that session.

Article 62 The National People's Congress shall exercise the following functions and powers:

- (1) amending the Constitution;
- (2) overseeing the enforcement of the Constitution;
- (3) enacting and amending criminal, civil, state institutional and other basic laws;
- (4) electing the president and the vice president of the People's Republic of China;
- (5) deciding, based on nomination by the president of the People's Republic of China, on the successful candidate for the premier of the State Council; deciding, based on nominations by the premier of the State Council, on the successful candidates for vice premiers, state councilors, ministers of ministries, ministers of commissions, the auditor general and the secretary general of the State Council;
- (6) electing the chairperson of the Central Military Commission and deciding, based on nominations by the chairperson of the Central Military Commission, on the successful candidates for other members of the Central Military Commission;
- (7) electing the chairperson of the National Commission of Supervision;
- (8) electing the president of the Supreme People's Court;
- (9) electing the procurator general of the Supreme People's Procuratorate;
- (10) reviewing and approving the plan for national economic and social development and the report on its implementation;
- (11) reviewing and approving the state budget and the report on its implementation;
- (12) changing or revoking inappropriate decisions of the National People's Congress Standing Committee;
- (13) approving the establishment of provinces, autonomous regions and cities directly under central government jurisdiction;
- (14) deciding on the establishment of special administrative regions and the systems to be instituted there;
- (15) deciding on issues concerning war and peace; and
- (16) other functions and powers that the highest state organ of power should exercise.

Article 63 The National People's Congress shall have the power to remove from office the following personnel:

- (1) the president and the vice president of the People's Republic of China;
- (2) the premier, vice premiers, state councilors, ministers of ministries, ministers of commissions, the auditor general and the secretary general of the State Council;
- (3) the chairperson of the Central Military Commission and other members of the Central Military Commission;
- (4) the chairperson of the National Commission of Supervision;
- (5) the president of the Supreme People's Court; and
- (6) the procurator general of the Supreme People's Procuratorate.

Article 64 Amendments to the Constitution must be proposed by the National People's Congress Standing Committee or by one-fifth or more of National People's Congress deputies and be adopted by a vote of at least two-thirds of National People's Congress deputies.

Laws and other proposals shall be adopted by a majority vote of the National People's Congress deputies.

Article 65 The National People's Congress Standing Committee shall be composed of the following personnel:

a chairperson,

vice chairpersons,
a secretary general, and
members.

There should be an appropriate number of ethnic minority deputies who sit as members on the National People's Congress Standing Committee.

The National People's Congress shall elect, and have the power to remove from office, the members of the National People's Congress Standing Committee.

Members of the National People's Congress Standing Committee shall not hold office in an administrative, supervisory, adjudicatory or procuratorial organ of the state.

Article 66 Each National People's Congress Standing Committee shall have the same term of office as that of the National People's Congress; it shall exercise its functions and powers until a new Standing Committee is elected by the next National People's Congress.

The chairperson and vice chairpersons of the Standing Committee shall serve no more than two consecutive terms.

Article 67 The National People's Congress Standing Committee shall exercise the following functions and powers:

- (1) interpreting the Constitution and overseeing its enforcement;
- (2) enacting and amending laws other than those that should be enacted by the National People's Congress;
- (3) when the National People's Congress is out of session, partially supplementing and amending laws enacted by the National People's Congress but without conflicting with the basic principles of those laws;
- (4) interpreting laws;
- (5) when the National People's Congress is out of session, reviewing and approving partial adjustments to the plan for national economic and social development and the state budget that must be made in the course of implementation;
- (6) overseeing the work of the State Council, the Central Military Commission, the National Commission of Supervision, the Supreme People's Court and the Supreme People's Procuratorate;
- (7) revoking administrative regulations, decisions and orders formulated by the State Council that are in conflict with the Constitution or laws;
- (8) revoking local regulations and resolutions formulated by the state organs of power in provinces, autonomous regions and cities directly under central government jurisdiction that are in conflict with the Constitution, laws, or administrative regulations;
- (9) when the National People's Congress is out of session, deciding, based on nominations by the premier of the State Council, on successful candidates for ministers of ministries, ministers of commissions, the auditor general and the secretary general of the State Council;
- (10) when the National People's Congress is out of session, deciding, based on nominations by the chairperson of the Central Military Commission, on successful candidates for other members of the Central Military Commission;
- (11) appointing or removing, based on recommendations by the chairperson of the National Commission of Supervision, vice chairpersons and members of the National Commission of Supervision;
- (12) appointing or removing, based on recommendations by the president of the Supreme People's Court, vice presidents, judges and Adjudicatory Committee members of the Supreme People's Court, and the president of the Military Court;
- (13) appointing or removing, based on recommendations by the procurator general of the Supreme People's Procuratorate,

deputy procurators general, procurators and Procuratorial Committee members of the Supreme People's Procuratorate, and the chief procurator of the Military Procuratorate; and approving the appointment or removal of chief procurators of the people's procuratorates of provinces, autonomous regions and cities directly under central government jurisdiction;

(14) deciding on the appointment or removal of plenipotentiary representatives abroad;

(15) deciding on the ratification or abrogation of treaties and important agreements concluded with foreign countries;

(16) stipulating systems of titles and ranks for military and diplomatic personnel and other field-specific title and ranking systems;

(17) stipulating national medals and titles of honor and deciding on their conferment;

(18) deciding on the granting of special pardons;

(19) when the National People's Congress is out of session, in the event of an armed attack on the country or in fulfillment of international treaty obligations concerning common defense against aggression, deciding on declaring a state of war;

(20) deciding on national or local mobilization;

(21) deciding on entering a state of emergency nationwide or in particular provinces, autonomous regions or cities directly under central government jurisdiction; and

(22) other functions and powers accorded to it by the National People's Congress.

Article 68 The chairperson of the National People's Congress Standing Committee shall preside over the work of the National People's Congress Standing Committee and convene meetings of the National People's Congress Standing Committee. The vice chairpersons and the secretary general shall assist the chairperson in his or her work.

The chairperson, vice chairpersons and the secretary general constitute a Council of Chairpersons, which handles the important day-to-day work of the National People's Congress Standing Committee.

Article 69 The National People's Congress Standing Committee shall be responsible to the National People's Congress and shall report to the Congress on its work.

Article 70 The National People's Congress shall establish an Ethnic Affairs Committee, a Constitution and Law Committee, a Financial and Economic Committee, an Education, Science, Culture and Public Health Committee, a Foreign Affairs Committee, an Overseas Chinese Affairs Committee and such other special committees as are necessary. When the National People's Congress is out of session, all special committees shall work under the leadership of the National People's Congress Standing Committee.

The special committees shall research, discuss and draw up relevant proposals under the leadership of the National People's Congress and the National People's Congress Standing Committee.

Article 71 When the National People's Congress and the National People's Congress Standing Committee deem it necessary, they may organize investigation committees on specific issues and, based on investigation committee reports, adopt appropriate resolutions.

When an investigation committee is conducting an investigation, all state organs, social organizations and citizens concerned shall have the obligation to provide the committee with the necessary data.

Article 72 Deputies to the National People's Congress and members of the National People's Congress Standing Committee shall have the power, in accordance with procedures prescribed by law, to submit proposals within the scope of the respective functions and powers of the National People's Congress and the National People's Congress Standing Committee.

Article 73 Deputies to the National People's Congress, when the Congress is in session, and members of the National People's Congress Standing Committee, when the Standing Committee is meeting, shall have the power, in accordance with procedures prescribed by law, to submit inquiries to the State Council or the ministries and commissions under it. Organs that

receive such inquiries must take responsibility for answering them.

Article 74 Deputies to the National People's Congress shall not be arrested or placed on criminal trial without the consent of the presidium of the current session of the National People's Congress or, when the Congress is out of session, the consent of the National People's Congress Standing Committee.

Article 75 The statements and votes of National People's Congress deputies at meetings of the National People's Congress shall not be subject to legal liability.

Article 76 Deputies to the National People's Congress must play an exemplary role in abiding by the Constitution and the law and keeping state secrets and, in the production, work and public activities they participate in, assist in the enforcement of the Constitution and the law.

Deputies to the National People's Congress should maintain close contact with the organizations and people that elected them, listen to and convey the opinions and demands of the people, and work hard to serve them.

Article 77 Deputies to the National People's Congress shall be subject to the oversight of the organizations that elected them. Organizations that have elected deputies shall have the power to remove them from office in accordance with procedures prescribed by law.

Article 78 The organization and working procedures of the National People's Congress and the National People's Congress Standing Committee shall be prescribed by law.

Section 2

The President of the People's Republic of China

Article 79 The president and the vice president of the People's Republic of China shall be elected by the National People's Congress.

Citizens of the People's Republic of China who have the right to vote and stand for election and who have reached the age of 45 are eligible for election as president or vice president of the People's Republic of China.

The president and the vice president of the People's Republic of China shall have the same term of office as that of the National People's Congress.

Article 80 The president of the People's Republic of China, pursuant to decisions of the National People's Congress and the National People's Congress Standing Committee, promulgates laws, appoints or removes the premier, vice premiers, state councilors, ministers of ministries, ministers of commissions, the auditor general and the secretary general of the State Council, confers national medals and titles of honor, issues orders of special pardon, declares a state of emergency, declares a state of war, and issues mobilization orders.

Article 81 The president of the People's Republic of China engages in affairs of state and receives foreign diplomatic envoys on behalf of the People's Republic of China and, pursuant to decisions of the National People's Congress Standing Committee, appoints or recalls plenipotentiary representatives abroad and ratifies or abrogates treaties and important agreements concluded with foreign countries.

Article 82 The vice president of the People's Republic of China shall assist the president in his or her work.

The vice president of the People's Republic of China may, when so entrusted by the president, exercise part of the functions and powers of the president on his or her behalf.

Article 83 The president and the vice president of the People's Republic of China shall exercise their functions and powers until the president and the vice president elected by the next National People's Congress assume office.

Article 84 In the event that the office of president of the People's Republic of China becomes vacant the vice president shall succeed to the office of president.

In the event that the office of vice president of the People's Republic of China becomes vacant the National People's Congress

shall elect a new vice president to fill the vacancy.

In the event that the offices of both president and vice president of the People's Republic of China become vacant the National People's Congress shall elect a new president and a new vice president; prior to their election, the chairperson of the National People's Congress Standing Committee shall temporarily act as the president.

Section 3 The State Council

Article 85 The State Council of the People's Republic of China, namely, the Central People's Government, is the executive organ of the highest state organ of power; it is the highest state administrative organ.

Article 86 The State Council is composed of the following personnel:

a premier,
vice premiers,
state councilors,
ministers of ministries,
ministers of commissions,
an auditor general, and
a secretary general.

The State Council shall practice a premier responsibility system. The ministries and commissions shall each practice a minister responsibility system.

The organization of the State Council shall be prescribed by law.

Article 87 The State Council shall have the same term of office as that of the National People's Congress.

The premier, vice premiers and state councilors shall serve no more than two consecutive terms.

Article 88 The premier shall direct the work of the State Council. The vice premiers and state councilors shall assist the premier in his or her work.

The premier, vice premiers, state councilors and the secretary general shall attend State Council executive meetings.

The premier shall convene and preside over State Council executive meetings and State Council plenary meetings.

Article 89 The State Council shall exercise the following functions and powers:

- (1) stipulating administrative measures, formulating administrative regulations and issuing decisions and orders in accordance with the Constitution and the law;
- (2) submitting proposals to the National People's Congress or the National People's Congress Standing Committee;
- (3) stipulating the missions and responsibilities of the ministries and commissions, exercising unified leadership over their work, and directing national administrative work that does not fall within the responsibilities of the ministries and commissions;
- (4) exercising unified leadership over the work of local state administrative organs at all levels nationwide and stipulating the detailed division of functions and powers between the Central Government and state administrative organs in provinces, autonomous regions and cities directly under central government jurisdiction;
- (5) drawing up and implementing plans for national economic and social development and state budgets;

- (6) directing and managing economic work, urban and rural development and ecological conservation;
- (7) directing and managing education, science, culture, health, sports and family planning work;
- (8) directing and managing work such as civil affairs, public security and judicial administration;
- (9) managing foreign affairs and concluding treaties and agreements with foreign countries;
- (10) directing and managing the development of national defense;
- (11) directing and managing ethnic affairs and protecting the equal rights of ethnic minorities and the power to self-govern of ethnic autonomous areas;
- (12) protecting the legitimate rights and interests of Chinese nationals overseas and protecting the lawful rights and interests of returned overseas Chinese nationals and the family members in China of Chinese nationals overseas;
- (13) changing or revoking inappropriate orders, directives and regulations issued by ministries or commissions;
- (14) changing or revoking inappropriate decisions and orders issued by local state administrative organs at all levels;
- (15) approving the geographic division of provinces, autonomous regions and cities directly under central government jurisdiction and approving the establishment and geographic division of autonomous prefectures, counties, autonomous counties and cities;
- (16) deciding, in accordance with the provisions of law, on entering a state of emergency in parts of provinces, autonomous regions and cities directly under central government jurisdiction;
- (17) reviewing and deciding on the staff size of administrative organs and, in accordance with the provisions of law, appointing or removing, training, evaluating, and awarding or punishing administrative personnel; and
- (18) other functions and powers accorded to it by the National People's Congress and the National People's Congress Standing Committee.

Article 90 State Council ministers of ministries and ministers of commissions shall be responsible for the work of their departments, and shall convene and preside over ministerial meetings or general and executive commission meetings to discuss and decide on major issues in their departments' work.

Ministries and commissions shall, in accordance with the law and the administrative regulations, decisions and orders of the State Council, issue orders and directives and promulgate regulations within the scope of their authority.

Article 91 The State Council shall establish an audit office to conduct auditing oversight over the revenue and expenditure of all State Council departments and local governments at all levels, and over the revenue and expenditure of all state financial institutions, enterprises and public institutions.

The audit office shall, under the leadership of the premier of the State Council, independently exercise the power to conduct auditing oversight in accordance with the provisions of law, and shall not be subject to interference from other administrative organs, social organizations or individuals.

Article 92 The State Council shall be responsible to the National People's Congress and shall report to the Congress on its work; when the National People's Congress is out of session it shall be responsible to the National People's Congress Standing Committee and shall report to the Standing Committee on its work.

Section 4 The Central Military Commission

Article 93 The Central Military Commission of the People's Republic of China shall lead the country's armed forces.

The Central Military Commission is composed of the following personnel:

a chairperson,
vice chairpersons, and
members.

The Central Military Commission shall practice a chairperson responsibility system.

The Central Military Commission shall have the same term of office as that of the National People's Congress.

Article 94 The chairperson of the Central Military Commission shall be responsible to the National People's Congress and the National People's Congress Standing Committee.

Section 5

Local People's Congresses at All levels and Local People's Governments at All Levels

Article 95 Provinces, cities directly under central government jurisdiction, counties, cities, municipal districts, townships, ethnic townships and towns shall establish people's congresses and people's governments.

The organization of local people's congresses at all levels and local people's governments at all levels shall be prescribed by law.

Autonomous regions, autonomous prefectures and autonomous counties shall establish autonomous organs. The organization and work of autonomous organs shall be prescribed by law in accordance with the basic principles laid down in Chapter III sections 5 and 6 of the Constitution.

Article 96 Local people's congresses at all levels are local state organs of power.

Local people's congresses at and above the county level shall establish standing committees.

Article 97 Deputies to the people's congresses of provinces, cities directly under central government jurisdiction and cities divided into districts shall be elected by the people's congresses at the next level down; deputies to the people's congresses of counties, cities not divided into districts, municipal districts, townships, ethnic townships and towns shall be directly elected by their constituencies.

The number of deputies to local people's congresses at all levels and the procedures of their election shall be prescribed by law.

Article 98 Local people's congresses at all levels shall have a term of five years.

Article 99 Local people's congresses at all levels shall, within their administrative areas, ensure the observance and enforcement of the Constitution, laws and administrative regulations; they shall, according to the authority invested in them as prescribed by law, adopt and issue resolutions, and review and decide on local economic, cultural and public service development plans.

Local people's congresses at and above the county level shall review and approve the economic and social development plans and budgets of their administrative areas as well as reports on their implementation; they shall have the power to change or revoke inappropriate decisions made by their own standing committees.

The people's congresses of ethnic townships may, according to the authority invested in them as prescribed by law, take specific measures suited to ethnic characteristics.

Article 100 The people's congresses of provinces and cities directly under central government jurisdiction and their standing committees may, provided there is no conflict with the Constitution, laws or administrative regulations, formulate local regulations, which shall be reported to the National People's Congress Standing Committee to be placed on record.

The people's congresses of cities divided into districts and their standing committees may, provided there is no conflict with

the Constitution, laws or administrative regulations, or with the local regulations of their province or autonomous region, formulate local regulations in accordance with the provisions of law, which shall go into force after submission to the standing committee of the people's congress of their province or autonomous region and the receipt of approval.

Article 101 Local people's congresses shall, at their respective levels, elect and have the power to remove from office governors and deputy governors, mayors and deputy mayors, county heads and deputy heads, municipal district heads and deputy heads, township heads and deputy heads, and town heads and deputy heads.

Local people's congresses at and above the county level shall elect, and have the power to remove from office, chairpersons of the commissions of supervision, presidents of the people's courts and chief procurators of the people's procuratorates at their respective levels. The election or removal of chief procurator of the people's procuratorate must be reported to the chief procurator of the people's procuratorate at the next level up for submission to the standing committee of the people's congress at that level for approval.

Article 102 Deputies to the people's congresses of provinces, cities directly under central government jurisdiction and cities divided into districts shall be subject to oversight by the organizations that elected them; deputies to the people's congresses of counties, cities not divided into districts, municipal districts, townships, ethnic townships and towns shall be subject to oversight by their constituencies.

The organizations and constituencies that elect deputies to local people's congresses at all levels shall have the power to remove them from office in accordance with procedures prescribed by law.

Article 103 The standing committees of local people's congresses at and above the county level shall be composed of a chairperson, vice chairpersons and members; they shall be responsible to the people's congresses at their respective levels and shall report to them on their work.

Local people's congresses at and above the county level shall elect, and have the power to remove from office, members of their standing committees.

Members of the standing committee of a local people's congress at or above the county level shall not hold office in an administrative, supervisory, adjudicatory or procuratorial organ of the state.

Article 104 The standing committees of local people's congresses at and above the county level shall discuss and decide on major issues in all areas of work in their administrative areas; oversee the work of the people's government, the commission of supervision, the people's court and the people's procuratorate at their respective levels; revoke inappropriate decisions and orders made by the people's government at the same level; revoke inappropriate resolutions adopted by the people's congress at the next level down; decide on the appointment or removal of employees of state organs according to the authority invested in them as prescribed by law; and, when people's congresses at their level are out of session, remove from office and elect to fill vacancies individual deputies to the people's congress at the next level up.

Article 105 Local people's governments at all levels are the executive organs of the local state organs of power at their respective levels; they are the local state administrative organs at their respective levels.

Local people's governments at all levels shall practice a governor, mayor, county head, municipal district head, township head or town head responsibility system.

Article 106 Local people's governments at all levels shall have the same term of office as that of the people's congresses at their respective levels.

Article 107 Local people's governments at and above the county level shall, according to the authority invested in them as prescribed by law, manage administrative work related to the economy, education, science, culture, public health, sports, urban and rural development, finance, civil affairs, public security, ethnic affairs, judicial administration, family planning, etc., within their administrative areas; and shall issue decisions and orders, appoint or remove, train, evaluate, and award or punish administrative employees.

The people's governments of townships, ethnic townships and towns shall implement the resolutions of the people's congresses at their level and the decisions and orders of state administrative organs at the next level up; they shall manage the

administrative work of their respective administrative areas.

The people's governments of provinces and cities directly under central government jurisdiction shall decide on the establishment of townships, ethnic townships and towns and their geographic division.

Article 108 Local people's governments at and above the county level shall direct the work of their subordinate departments and of the people's governments at the next level down and shall have the power to change or revoke inappropriate decisions made by their subordinate departments and the people's governments at the next level down.

Article 109 Local people's governments at and above the county level shall establish audit offices. Local audit offices at all levels shall, in accordance with the provisions of law, independently exercise the power to conduct auditing oversight; they shall be responsible to the people's government at their level and to the audit office at the next level up.

Article 110 Local people's governments at all levels shall be responsible to the people's congresses at their levels and shall report to them on their work. Local people's governments at and above the county level shall, when the people's congresses at their level are out of session, be responsible to the standing committees of the people's congresses at their level and shall report to them on their work.

Local people's governments at all levels shall be responsible to state administrative organs at the next level up and shall report to them on their work. Local people's governments at all levels nationwide are state administrative organs under the unified leadership of the State Council; they shall all be subordinate to the State Council.

Article 111 Residents committees and villagers committees, established among urban and rural residents on the basis of their place of residence, are primary-level people's organizations for self-governance. Residents committee and villagers committee chairpersons, vice chairpersons and members shall be elected by residents. The relations between residents committees and villagers committees and primary-level state bodies shall be prescribed by law.

Residents committees and villagers committees shall establish people's mediation, public security, public health and other subcommittees to handle public affairs and public services in the residential areas to which they belong, mediate civil disputes and help maintain public order; they shall convey residents' opinions and demands and make proposals to the people's government.

Section 6

Autonomous Organs of Ethnic Autonomous Areas

Article 112 The autonomous organs of ethnic autonomous areas are the people's congresses and the people's governments of autonomous regions, autonomous prefectures and autonomous counties.

Article 113 In the people's congresses of autonomous regions, autonomous prefectures and autonomous counties, aside from deputies of the ethnic group that exercises regional autonomy, other ethnic groups resident in that administrative area should also have an appropriate number of deputies.

On the standing committees of people's congresses of autonomous regions, autonomous prefectures and autonomous counties, there should be citizens of the ethnic group that exercises regional autonomy in office as chairperson or vice chairperson.

Article 114 The offices of governor of an autonomous region, prefect of an autonomous prefecture and head of an autonomous county shall be filled by a citizen belonging to the ethnic group that exercises regional autonomy there.

Article 115 The autonomous organs of autonomous regions, autonomous prefectures and autonomous counties shall exercise the functions and powers of local state organs as specified in Chapter III Section 5 of the Constitution; at the same time, they shall exercise the power to self-govern according to the authority invested in them as prescribed by the Constitution and the Law on Regional Ethnic Autonomy and other laws, and, based on local circumstances, shall implement the laws and policies of the state.

Article 116 The people's congresses of ethnic autonomous areas shall have the power to formulate autonomous regulations and local-specific regulations in accordance with the political, economic and cultural characteristics of the ethnic groups in

their areas. The autonomous regulations and local-specific regulations of autonomous regions shall go into effect after submission to the National People's Congress Standing Committee and receipt of approval. The autonomous regulations and local-specific regulations of autonomous prefectures and autonomous counties shall go into effect after submission to the standing committees of the people's congresses of their provinces or autonomous regions and receipt of approval, and shall be reported to the National People's Congress Standing Committee to be placed on record.

Article 117 Autonomous organs of ethnic autonomous areas shall have the autonomy to manage their local finances. All fiscal revenue which, according to the state financial system, belongs to an ethnic autonomous area should be autonomously allocated and used by the autonomous organs of that ethnic autonomous area.

Article 118 Autonomous organs of ethnic autonomous areas shall, under the guidance of state plans, autonomously plan for and manage local economic development.

When the state is exploiting resources or establishing enterprises in an ethnic autonomous area, it should be attentive to the interests of that area.

Article 119 Autonomous organs of ethnic autonomous areas shall autonomously manage the educational, scientific, cultural, health and sports undertakings of their areas, protect and restore the cultural heritage of their ethnic groups, and promote the development and a thriving of ethnic cultures.

Article 120 Autonomous organs of ethnic autonomous areas may, in accordance with the military system of the state and local needs, and with the approval of the State Council, organize local public security units to maintain public order.

Article 121 In performing their duties, autonomous organs of ethnic autonomous areas shall, in accordance with the autonomous regulations of that ethnic autonomous area, use the spoken and written language or languages commonly used in that area.

Article 122 The state shall provide financial, material and technical assistance to ethnic minorities to accelerate their economic and cultural development.

The state shall assist ethnic autonomous areas in training on a large scale officials at all levels, different types of specialized personnel and technical workers from among that area's ethnic groups.

Section 7 Commissions of Supervision

Article 123 Commissions of supervision of the People's Republic of China at all levels are the supervisory organs of the state.

Article 124 The People's Republic of China shall establish a National Commission of Supervision and local commissions of supervision at all levels.

A commission of supervision shall be composed of the following personnel:

a chairperson,

vice chairpersons, and

members.

The chairperson of a commission of supervision shall have the same term of office as that of the people's congress at the same level. The chairperson of the National Commission of Supervision shall serve no more than two consecutive terms.

The organization, functions and powers of the commissions of supervision shall be prescribed by law.

Article 125 The National Commission of Supervision of the People's Republic of China is the highest supervisory organ.

The National Commission of Supervision shall direct the work of local commissions of supervision at all levels; commissions of supervision at higher levels shall direct the work of those at lower levels.

Article 126 The National Commission of Supervision shall be responsible to the National People's Congress and the National People's Congress Standing Committee. Local commissions of supervision at all levels shall be responsible to the state organs of power that created them and to the commissions of supervision at the next level up.

Article 127 Commissions of supervision shall, in accordance with the provisions of law, independently exercise supervisory power, and shall not be subject to interference from any administrative organ, social organization or individual.

The supervisory organs, in handling cases of duty-related malfeasance or crime, shall work together with adjudicatory organs, procuratorial organs and law enforcement departments; they shall act as a mutual check on each other.

Section 8 People's Courts and People's Procuratorates

Article 128 The people's courts of the People's Republic of China are the adjudicatory organs of the state.

Article 129 The People's Republic of China shall establish a Supreme People's Court and local people's courts at all levels, military courts and other special people's courts.

The president of the Supreme People's Court shall have the same term of office as that of the National People's Congress and shall serve no more than two consecutive terms.

The organization of the people's courts shall be prescribed by law.

Article 130 Except in special circumstances as prescribed by law, all cases in the people's courts shall be tried in public. The accused shall have the right to defense.

Article 131 The people's courts shall, in accordance with the provisions of law, independently exercise adjudicatory power, and shall not be subject to interference from any administrative organ, social organization or individual.

Article 132 The Supreme People's Court is the highest adjudicatory organ.

The Supreme People's Court shall oversee the adjudicatory work of local people's courts at all levels and of special people's courts; people's courts at higher levels shall oversee the adjudicatory work of those at lower levels.

Article 133 The Supreme People's Court shall be responsible to the National People's Congress and the National People's Congress Standing Committee. Local people's courts at all levels shall be responsible to the state organs of power that created them.

Article 134 The people's procuratorates of the People's Republic of China are the legal oversight organs of the state.

Article 135 The People's Republic of China shall establish a Supreme People's Procuratorate, local people's procuratorates at all levels, military procuratorates and other special people's procuratorates.

The procurator general of the Supreme People's Procuratorate shall have the same term of office as that of the National People's Congress and shall serve no more than two consecutive terms.

The organization of the people's procuratorates shall be prescribed by law.

Article 136 The people's procuratorates shall, in accordance with the provisions of law, independently exercise procuratorial power, and shall not be subject to interference from any administrative organ, social organization or individual.

Article 137 The Supreme People's Procuratorate is the highest procuratorial organ.

The Supreme People's Procuratorate shall direct the work of local people's procuratorates at all levels and of special people's procuratorates; people's procuratorates at higher levels shall direct the work of those at lower levels.

Article 138 The Supreme People's Procuratorate shall be responsible to the National People's Congress and the National People's Congress Standing Committee. Local people's procuratorates at all levels shall be responsible to the state organs of power that created them and to the people's procuratorates at higher levels.

Article 139 Citizens of all ethnic groups shall have the right to use their own ethnic group's spoken and written languages in court proceedings. The people's courts and the people's procuratorates should provide translation services for any party to court proceedings who does not have a good command of the spoken or written languages commonly used in the locality.

In areas inhabited by people of an ethnic minority or by a number of ethnic groups living together, court hearings should be conducted in the language or languages commonly used in the locality; indictments, judgments, notices and other documents should be written in the language or languages commonly used in the locality according to actual needs.

Article 140 In handling criminal cases, the people's courts, the people's procuratorates and public security organs should each be responsible for their respective tasks, work together with each other, and act as checks on each other to ensure the faithful and effective enforcement of the law.

Chapter IV

The National Flag, National Anthem, National Emblem and the Capital

Article 141 The national flag of the People's Republic of China is a red flag with five stars.

The national anthem of the People's Republic of China is the *March of the Volunteers*.

Article 142 The national emblem of the People's Republic of China consists of an image of Tiananmen Gate in the center illuminated by five stars and encircled by spikes of grain and a cogwheel.

Article 143 The capital of the People's Republic of China is Beijing.

(This English version is provided by the Communist Party of China Central Committee Institute of Party History and Literature.)

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**អនុសញ្ញា ទីក្រុងម៉ុងតេវីដេអូ ស្តីពី
សិទ្ធិ និង ករណីកិច្ចរបស់រដ្ឋ**

Montevideo Convention on the Rights and Duties of States

Signed at Montevideo, 26 December 1933
Entered into Force, 26 December 1934
Article 8 reaffirmed by Protocol, 23 December 1936

Bolivia alone amongst the states represented at the Seventh International Conference of American States did not sign the Convention. The United States of America, Peru, and Brazil ratified the Convention with reservations directly attached to the document.

CONVENTION ON RIGHTS AND DUTIES OF STATES

The Governments represented in the Seventh International Conference of American States:

Wishing to conclude a Convention on Rights and Duties of States, have appointed the following Plenipotentiaries:

Honduras:

Miguel PAZ Baraona
Augusto C. COELLO
Luis BOGRAN

United States of America:

Cordell HULL
Alexander W. WEDDELL
J. Reuben CLARK
J. Butler WRIGHT
Spruille BRADEN
Miss Sophonisba P. BRECKINRIDGE

El Salvador:

Hector David CASTRO
Arturo Ramon AVILA
J. Cipriano CASTRO

Dominican Republic:

Tulio M. CESTERO

Haiti:

Justin BARAU
Francis SALGADO
Antoine PIERRE-PAUL
Edmond MANGONES

Argentina:

Carlos SAAVEDRA Lamas
Juan F. CAFFERATA

Ramon S. CASTILLO

Carlos BREBBIA
Isidoro RUIZ Moreno
Luis A. PODESTA Costa
Raul PREBISCH
Daniel ANTOKOLETZ

Venezuela:

Cesar ZUMETA
Luis CHURTON
José Rafael MONTILLA

Uruguay:

Alberto MANE
Juan José AMEZAGA
José G. ANTUNA
Juan Carlos BLANCO
Senora Sofia A. V. DE DEMICHELI
Martin R. ECHEGOYEN
Luis Alberto DE HERRERA
Pedro MANINI Rios
Mateo MARQUES Castro
Rodolfo MEZZERA
Octavio MORATA
Luis MORQUIO
Teofilo PINEYRO Chain
Dardo REGULES
José SERRATO
José Pedro VARELA

Paraguay:

Justo Pastor BENITEZ
Geronimo RIART
Horacio A. FERNANDEZ
Senorita Maria F. GONZALEZ

Mexico:

José Manuel PUIG Casauranc
Alfonso REYES
Basilio VADILLO
Genaro V. VASQUEZ
Romeo ORTEGA
Manuel J. SIERRA
Eduardo SUAREZ

Panama:

J. D. AROSEMENA
Eduardo E. HOLGUIN
Oscar R. MULLER
Magin PONS

Bolivia:

Casto ROJAS
David ALVESTEGUI
Arturo PINTO Escalier

Guatemala:

Alfredo SKINNER Klee
José GONZALEZ Campo
Carlos SALAZAR
Manuel ARROYO

Brazil:

Afranio DE MELLO Franco
Lucillo A. DA CUNHA Bueno
Francisco Luis DA SILVA Campos
Gilberto AMADO
Carlos CHAGAS
Samuel RIBEIRO

Ecuador:
Augusto AGUIRRE Aparicio
Humberto ALBORNOZ
Antonio PARRA
Carlos PUIG Vilassar
Arturo SCARONE

Nicaragua:
Leonardo ARGUELLO
Manuel CORDERO Reyes
Carlos CUADRA Pasos

Colombia:
Alfonso LOPEZ
Raimundo RIVAS
José CAMACEO Carreno

Chile:
Miguel CRUCHAGA Tocornal
Octavio SENORET Silva
Gustavo RIVERA
José Ramon GUTIERREZ
Felix NIETO DEL RIO
Francisco FIGUEROA Sanchez
Benjamin COHEN

Peru:
Alfredo SOLE Y MURO
Felipe BARREDA Laos
Luis Fernan CISNEROS

Cuba:
Angel Alberto GIRAUDY
Herminio PORTELL Vila

Alfredo NOGUEIRA

Who, after having exhibited their Full Powers, which were found to be in good and due order, have agreed upon the following:

Article 1

The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states.

Article 2

The federal state shall constitute a sole person in the eyes of international law.

Article 3

The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts.

The exercise of these rights has no other limitation than the exercise of the rights of other states according to international law.

Article 4

States are juridically equal, enjoy the same rights, and have equal capacity in their exercise. The rights of each one do not depend upon the power which it possesses to assure its exercise, but upon the simple fact of its existence as a person under international law.

Article 5

The fundamental rights of states are not susceptible of being affected in any manner whatsoever.

Article 6

The recognition of a state merely signifies that the state which recognizes it accepts the personality of the other with all the rights and duties determined by international law. Recognition is unconditional and irrevocable.

Article 7

The recognition of a state may be express or tacit. The latter results from any act which implies the intention of recognizing the new state.

Article 8

No state has the right to intervene in the internal or external affairs of another.

Article 9

The jurisdiction of states within the limits of national territory applies to all the inhabitants.

Nationals and foreigners are under the same protection of the law and the national authorities and the foreigners may not claim rights other or more extensive than those of the nationals.

Article 10

The primary interest of states is the conservation of peace. Differences of any nature which arise between them should be settled by recognized pacific methods.

Article 11

The contracting states definitely establish as the rule of their conduct the precise obligation not to recognize territorial acquisitions or special advantages which have been obtained by force whether this consists in the employment of arms, in threatening diplomatic representations, or in any other effective coercive measure. The territory of a state is inviolable and may not be the object of military occupation nor of other measures of force imposed by another state directly or indirectly or for any motive whatever even temporarily.

Article 12

The present Convention shall not affect obligations previously entered into by the High Contracting Parties by virtue of international agreements.

Article 13

The present Convention shall be ratified by the High Contracting Parties in conformity with their respective constitutional procedures. The Minister of Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

Article 14

The present Convention will enter into force between the High Contracting Parties in the order in which they deposit their respective ratifications.

Article 15

The present Convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan American Union, which shall transmit it to the other signatory governments. After the expiration of this period the Convention shall cease in its effects as regards the party which denounces but shall remain in effect for the remaining High Contracting Parties.

Article 16

The present Convention shall be open for the adherence and accession of the States which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan American Union which shall communicate them to the other High Contracting Parties.

IN WITNESS WHEREOF, the following Plenipotentiaries have signed this Convention in Spanish, English, Portuguese and French and hereunto affix their respective seals in the city of Montevideo, Republic of Uruguay, this 26th day of December, 1933.

Reservations

The Delegation of the United States of America, in signing the Convention on the Rights and Duties of States, does so with the express reservation presented to the Plenary Session of the Conference on December 22, 1933, which reservation reads as follows:

The Delegation of the United States, in voting "yes" on the final vote on this committee recommendation and proposal, makes the same reservation to the eleven articles of the project or proposal that the United States Delegation made to the first ten articles during the final vote in the full Commission, which reservation is in words as follows:

"The policy and attitude of the United States Government toward every important phase of international relationships in this hemisphere could scarcely be made more clear and definite than they have been made by both word and action especially since March 4. I [Secretary of State Cordell Hull, chairman of U.S. delegation] have no disposition therefore to indulge in any repetition or rehearsal of these acts and utterances and shall not do so. Every observing person must by this time thoroughly understand that under the Roosevelt Administration the United States Government is as much opposed as any other government to interference with the freedom, the sovereignty, or other internal affairs or processes of the governments of other nations.

"In addition to numerous acts and utterances in connection with the carrying out of these doctrines and policies, President Roosevelt, during recent weeks, gave out a public statement expressing his disposition to open negotiations with the Cuban Government for the purpose of dealing with the treaty which has existed since 1903. I feel safe in undertaking to say that under our support of the general principle of non-intervention as has been suggested, no government need fear any intervention on the part of the United States under the Roosevelt Administration. I think it unfortunate that during the brief period of this Conference there is apparently not time within which to prepare interpretations and definitions of these fundamental terms that are embraced in the report. Such definitions and interpretations would enable every government to proceed in a uniform way without any difference of opinion or of interpretations. I hope that at the earliest possible date such very important work will be done. In the meantime in case of differences of interpretations and also until they (the proposed doctrines and principles) can be worked out and codified for the common use of every government, I desire to say that the United States Government in all of its international associations and relationships and conduct will follow scrupulously the doctrines and policies which it has pursued since March 4 which are embodied in the different addresses of President Roosevelt since that time and in the recent peace address of myself on the 15th day of December before this Conference and in the law of nations as generally recognized and accepted".

The delegates of Brazil and Peru recorded the following private vote with regard to article 11: "That they accept the doctrine in principle but that they do not consider it codifiable because there are some countries which have not yet signed the Anti-War Pact of Rio de Janeiro 4 of which this doctrine is a part and therefore it does not yet constitute positive international law suitable for codification".

Honduras:
Miguel PAZ Baraona
Augusto C. COELLO
Luis BOGRAN

United States of America:
Alexander W. WEDDELL
J. Butler WRIGHT

El Salvador:

Hector David CASTRO
Arturo Ramon AVILA
Dominican Republic:
Tulio M. CESTERO

Haiti:
J. BARAU
F. SALGADO
Edmond MANGONES
A. PIERRE-PAUL

Argentina:
Carlos SAAVEDRA Lamas
Juan F. CAFFERATA
Ramon S. CASTILLO
I. RUIZ Moreno
L. A. PODESTA Costa
D. ANTOKOLETZ

Venezuela:
Luis CHURTON
J. R. MONTILLA

Uruguay:
A. MANE
José Pedro VARELA
Mateo MARQUES Castro
Dardo REGULES
Sofia Alvarez Vignoli DE DEMICHELI
Teofilo PINEYRO Chain
Luis A. DE HERRERA
Martin R. ECHEGOYEN
José G. ANTUNA
J. C. BLANCO
Pedro MANINI Rios
Rodolfo MEZZERA
Octavio MORATA
Luis MORQUIO
José SERRATO

Paraguay:
Justo Pastor BENITEZ
Maria F. GONZALEZ

Mexico:
B. VADILLO
M. J. SIERRA
Eduardo SUAREZ

Panama:
J. D. AROSEMENA
Magin PONS
Eduardo E. HOLGUIN
Guatemala:
M. ARROYO

Brazil:
Lucillo A. DA CUNHA Bueno
Gilberto AMADO

Ecuador:

A. AGUIRRE Aparicio
H. ALBORNOZ
Antonio PARRA V.
C. PUIG V.
Arturo SCARONE

Nicaragua:
Leonardo ARGUELLO
M. CORDERO Reyes
Carlos CUADRA Pasos

Colombia:
Alfonso LOPEZ
Raimundo RIVAS

Chile:
Miguel CRUCHAGA
J. Ramon GUTIERREZ
F. FIGUEROA
F. NIETO DEL RIO
B. COHEN

Peru:
(with reservation set forth)
Alfredo SOLE Y MURO

Cuba:
Alberto GIRAUDY
Herminio PORTELL Vila
Ing. NOGUEIRA

ឧបសម្ព័ន្ធទី៣

កិច្ចព្រមព្រៀងទីក្រុងហ្សឺណែវ

(ថ្ងៃទី២០-២១ ខែកក្កដា ឆ្នាំ១៩៥៤)

Geneva Agreements

20-21 July 1954

Agreement on the Cessation of Hostilities in Viet-Nam

20 July 1954

CHAPTER I

Provisional Military Demarcation Line and Demilitarized Zone

Article 1

A provisional military demarcation line shall be fixed, on either side of which the forces of the two parties shall be regrouped after their withdrawal, the forces of the People's Army of Viet-Nam to the north of the line and the forces of the French Union to the south.

The provisional military demarcation line is fixed as shown on the map attached (see Map No. 1).

It is also agreed that a demilitarized zone shall be established on either side of the demarcation line, to a width of not more than 5 Kms. from it, to act as a buffer zone and avoid any incidents which might result in the resumption of hostilities.

Article 2

The period within which the movement of all the forces of either party into its regrouping zone on either side of the provisional military demarcation line shall be completed shall not exceed three hundred (300) days from the date of the present Agreement's entry into force.

Article 3

When the provisional military demarcation line coincides with a waterway, the waters of such waterway shall be open to civil navigation by both parties wherever one bank is controlled by one party and the other bank by the other party. The Joint Commission shall establish rules of navigation for the stretch of waterway in question. The merchant shipping and other civilian craft of each party shall have unrestricted access to the land under its military control.

Article 4

The provisional military demarcation line between the two final regrouping zones is extended into the territorial waters by a line perpendicular to the general line of the coast.

All coastal islands north of this boundary shall be evacuated by the armed forces of the French Union, and all islands south of it shall be evacuated by the forces of the People's Army of Viet-Nam.

Article 5

To avoid any incidents which might result in the resumption of hostilities, all military forces, supplies and equipment shall be withdrawn from the demilitarized zone within twenty-five (25) days of the present Agreement's entry into force.

Article 6

No person, military or civilian, shall be permitted to cross the provisional military demarcation line unless specifically authorized to do so by the Joint Commission.

Article 7

No person, military or civilian, shall be permitted to enter the demilitarized zone except persons concerned with the conduct of civil administration and relief and persons specifically authorized to enter by the Joint Commission.

Article 8

Civil administration and relief in the demilitarized zone on either side of the provisional military demarcation line shall be the responsibility of the Commanders-in-Chief of the two parties in their respective zones. The number of persons, military or civilian, from each side who are permitted to enter the demilitarized zone for the conduct of civil administration and relief shall be determined by the respective Commanders, but in no case shall the total number authorized by either side exceed at any one time a figure to be determined by the Trung Gia military Commission or by the Joint Commission. The number of civil police and the arms to be carried by them shall be determined by the Joint Commission. No one else shall carry arms unless specifically authorized to do so by the Joint Commission.

Article 9

Nothing contained in this chapter shall be construed as limiting the complete freedom of movement, into, out of or within the demilitarized zone, of the Joint Commission, its joint groups, the International Commission to be set up as indicated below, its inspection teams and any other persons, supplies or equipment specifically authorized to enter the demilitarized zone by the Joint Commission. Freedom of movement shall be permitted across the territory under the military control of either side over any road or waterway which has to be taken between points within the demilitarized zone when such points are not connected by roads or waterways lying completely within the demilitarized zone.

CHAPTER II

Principles and Procedure Governing Implementation of the Present Agreement

Article 10

The Commanders of the Forces on each side, on the one side the Commander-in-Chief of the French Union forces in Indo-China and on the other side the Commander-in-Chief of the People's Army of Viet-Nam, shall order and enforce the complete cessation of all hostilities in Viet-Nam by all armed forces under their control, including all units and personnel of the ground, naval and air forces.

Article 11

In accordance with the principle of a simultaneous cease-fire throughout Indo-China, the cessation of hostilities shall be simultaneous throughout all parts of Viet-Nam, in all areas of hostilities and for all the forces of the two parties.

Taking into account the time effectively required to transmit the cease-fire order down to the lowest echelons of the combatant forces on both sides, the two parties are agreed that the cease-fire shall take effect completely and simultaneously for the different sectors of the country as follows:

Northern Viet-Nam at 8.00 a.m. (local time) on 27 July 1954

Central Viet-Nam at 8.00 a.m. (local time) on 1 August 1954

Southern Viet-Nam at 8.00 a.m. (local time) on 11 August 1954

It is agreed that Peking mean time shall be taken as local time.

From such time as the cease-fire becomes effective in Northern Viet-Nam, both parties undertake not to engage in any large-scale offensive action in any part of the Indo-Chinese theatre of operations and not to commit the air forces based on Northern Viet-Nam outside that sector. The two parties also undertake to inform each other of their plans for movement from one regrouping zone to another within twenty-five (25) days of the present Agreement's entry into force.

Article 12

All the operations and movements entailed in the cessation of hostilities and regrouping must proceed in a safe and orderly fashion:

(a) Within a certain number of days after the cease-fire Agreement shall have become effective, the number to be determined on the spot by the Trung Gia Military Commission, each party shall be responsible for removing and neutralizing mines (including river- and sea-mines),

booby traps, explosives and any other dangerous substances placed by it. In the event of its being impossible to complete the work of removal and neutralization in time, the party concerned shall mark the spot by placing visible signs there. All demolitions, mine fields, wire entanglements and other hazards to the free movement of the personnel of the Joint Commission and its joint groups, known to be present after the withdrawal of the military forces, shall be reported to the Joint Commission by the Commanders of the opposing forces;

(b) From the time of the cease-fire until regrouping is completed on either side of the demarcation line:

(1) The forces of either party shall be provisionally withdrawn from the provisional assembly areas assigned to the other party.

(2) When one party's forces withdraw by a route (road, rail, waterway, sea route) which passes through the territory of the other party (see Article 24), the latter party's forces must provisionally withdraw three kilometres on each side of such route, but in such a manner as to avoid interfering with the movements of the civil population.

Article 13

From the time of the cease-fire until the completion of the movements from one regrouping zone into the other, civil and military transport aircraft shall follow air-corridors between the provisional assembly areas assigned to the French Union forces north of the demarcation line on the one hand and the Laotian frontier and the regrouping zone assigned to the French Union forces on the other hand.

The position of the air-corridors, their width, the safety route for single-engined military aircraft transferred to the south and the search and rescue procedure for aircraft in distress shall be determined on the spot by the Trung Gia Military Commission.

Article 14

Political and administrative measures in the two regrouping zones on either side of the provisional military demarcation line:

(a) Pending the general elections which will bring about the unification of Viet-Nam, the conduct of civil administration in each regrouping zone shall be in the hands of the party whose forces are to be regrouped there in virtue of the present Agreement;

(b) Any territory controlled by one party which is transferred to the other party by the regrouping plan shall continue to be administered by the former party until such date as all the troops who are to be transferred have completely left that territory so as to free the zone assigned to the party in question. From then on, such territory shall be regarded as transferred to the other party, who shall assume responsibility for it.

Steps shall be taken to ensure that there is no break in the transfer of responsibilities. For this purpose, adequate notice shall be given by the withdrawing party to the other party, which shall make the necessary arrangements, in particular by sending administrative and police detachments to prepare for the assumption of administrative responsibility. The length of such notice shall be determined by the Trung (ie Military Commission. The transfer shall be effected in successive stages for the various territorial sectors.

The transfer of the civil administration of Hanoi and Haiphong to the authorities of the Democratic Republic of Viet-Nam shall be completed within the respective time-limits laid down in Article 15 for military movements.

(c) Each party undertakes to refrain from any reprisals or discrimination against persons or organizations on account of their activities during the hostilities and to guarantee their democratic liberties.

(d) From the date of entry into force of the present Agreement until the movement of troops is completed, any civilians residing in a district controlled by one party who wish to go and live in the zone assigned to the other party shall be permitted and helped to do so by the authorities in that district.

Article 15

The disengagement of the combatants, and the withdrawals and transfers of military forces, equipment and supplies shall take place in accordance with the following principles:

(a) The withdrawals and transfers of the military forces, equipment and supplies of the two parties shall be completed within three hundred (300) days, as laid down in Article 2 of the present Agreement;

(b) Within either territory successive withdrawals shall be made by sectors, portions of sectors or provinces. Transfers from one regrouping zone to another shall be made in successive monthly instalments proportionate to the number of troops to be transferred;

(c) The two parties shall undertake to carry out all troop withdrawals and transfers in accordance with the aims of the present Agreement, shall permit no hostile act and shall take no step whatsoever which might hamper such withdrawals and transfers. They shall assist one another as far as this is possible;

(d) The two parties shall permit no destruction or sabotage of any public property and no injury to the life and property of the civil population. They shall permit no interference in local civil administration;

(e) The Joint Commission and the International Commission shall ensure that steps are taken to safeguard the forces in the course of withdrawal and transfer

(f) The Trung Gia Military Commission, and later the Joint Commission, shall determine by common agreement the exact procedure for the disengagement of the combatants and for troop withdrawals and transfers, on the basis of the principles mentioned above and within the framework laid down below:

1. The disengagement of the combatants, including the concentration of the armed forces of all kinds and also each party's movements into the provisional assembly areas assigned to it and the other party's provisional withdrawal from it, shall be completed within a period not exceeding fifteen (15) days after the date when the cease-fire becomes effective.

The general delineation of the provisional assembly areas is set out in the maps annexed to the present Agreement

In order to avoid any incidents, no troops shall be stationed less than 1,500 metres from the lines delimiting the provisional assembly areas.

During the period until the transfers are concluded, all the coastal islands west of the following lines shall be included in the Haiphong perimeter:

- meridian of the southern point of Kebao Island
- northern coast of Ile Rousse (excluding the island), extended as far as the meridian of Campha-Mines
- meridian of Campha-Mines.

2. The withdrawals and transfers shall be effected in the following and within the following periods (from the date of the entry into force of the present Agreement):

Forces of the French Union

Hanoi perimeter - 80 days

Haiduong perimeter - 100 days

Haiphong perimeter - 300 days

Forces of the People's Army of Viet-Nam

Ham Tan and Xuyenmoc provisional assembly area - 80 days

Central Viet-Nam provisional assembly area - first instalment- 80 days

Plaine des Jones provisional assembly area-100 days

Central Viet-Nam provisional assembly area - second instalment-100 days

Point Camau provisional assembly area- 200 days

Central Viet-Nam provisions 1 assembly area - last instalment- 300 days

CHAPTER III

Ban on the Introduction of Fresh Troops, Military Personnel, Arms, and Munitions. Military Bases

Article 16

With effect from the date of entry into force of the present Agreement, the introduction into Viet-Nam of any troop reinforcements and additional military personnel is prohibited.

It is understood, however, that the rotation of units and Groups of personnel, the arrival in Viet-Nam of individual personnel onto temporary duty basis and the return to Viet-Nam of individual personnel after short periods of leave or temporary duty outside Viet-Nam shall be permitted under the conditions laid down below:

(a) Rotation of units (defined in paragraph (c) of this Article) and groups of personnel shall not be permitted for French Union troops stationed north of the provisional military demarcation line laid down in Article 1 of the present Agreement, during the withdrawal period provided for in Article 2

However, under the heading of individual personnel not more than fifty (50) men, including officers, shall during any one month be permitted to enter that part of the country north of the provisional military demarcation line on a temporary duty basis or to return there after short periods of leave or temporary duty outside Viet-Nam.

(b) "Rotation" is defined as the replacement of units or groups of personnel by other units of the same echelon or by personnel who are arriving in Viet-Nam territory to do their overseas service there;

(c) The units rotated shall never be larger than a battalion-or the corresponding echelon for air and naval forces;

(d) Rotation shall be conducted on a man-for-man basis, provided, however, that in any one quarter neither party shall introduce more than fifteen thousand five hundred (15,500) members of its armed forces into Viet-Nam under the rotation policy.

(e) Rotation units (defined in paragraph (c) of this Article) and groups of personnel, and the individual personnel mentioned in this Article, shall enter and leave Viet-Nam only through the entry points enumerated in Article 20 below;

(f) Each party shall notify the Joint Commission and the International Commission at least two days in advance of any arrivals or departure of units, groups of personnel and individual personnel in or from Viet-Nam. Reports on the arrivals or departures of units, groups of personnel and individual personnel in or from Viet-Nam shall be submitted daily to the Joint Commission and the International Commission.

All the above-mentioned notifications and reports shall indicate the places and dates of arrival or departure and the number of persons arriving or departing;

(g) The International Commission, through its Inspection Teams, shall supervise and inspect the rotation of units and groups of personnel and the arrival and departure of individual personnel as authorized above, at the points of entry enumerated in Article 20 below.

Article 17

(a) With effect from the date of entry into force of the present Agreement, the introduction into Viet-Nam of any reinforcements in the form of all types of arms, munitions and other war material, such as combat aircraft, naval craft, pieces of ordnance, jet engines and jet weapons and armoured vehicles, is prohibited

(b) It is understood, however, that war material, arms and munitions which have been destroyed, damaged, worn out or used up after the cessation of hostilities may be replaced on the basis of piece-for-piece of the same type and with similar characteristics. Such replacements of war material, arms and munitions shall not be permitted for French Union troops stationed north of the provisional military demarcation line laid down in article 1 of the present Agreement, during the withdrawal period provided for in Article 2.

Naval craft may perform transport operations between the regrouping zones.

(c) The war material, arms and munitions for replacement purposes provided for in paragraph (b) of this Article, shall be introduced into Viet-Nam only through the points of entry enumerated in Article 20 below. War material, arms and munitions to be replaced shall be shipped from Viet-Nam only through the points of entry enumerated in Article 20 below;

(d) Apart from the replacements permitted within the limits laid down in paragraph (b) of this Article, the introduction of war material, arms and munitions of all types in the form of unassembled parts for subsequent assembly is prohibited;

(e) Each party shall notify the Joint Commission and the International Commission at least two days in advance of any arrivals or departures which may take place of war material, arms and munitions of all types.

In order to justify the requests for the introduction into Viet-Nam of arms, munitions and other war material (as defined in paragraph (a) of this Article) for replacement purposes, a report concerning each incoming shipment shall be submitted to the Joint Commission and the International Commission. Such reports shall indicate the use made of the items so replaced;

(f) The International Commission, through its Inspection Teams, shall supervise and inspect the replacements permitted in the circumstances laid down in this Article, at the points of entry enumerated in Article 20 below.

Article 18

With effect from the date of entry into force of the present Agreement, the establishment of new military bases is prohibited throughout Viet-Nam territory.

Article 19

With effect from the date of entry into force of the present Agreement, no military base under the control of a foreign State may be established in the re-grouping zone of either party; the two parties shall ensure that the zones assigned to them do not adhere to any military alliance and are not used for the resumption of hostilities or to further an aggressive policy.

Article 20

The points of entry into Viet-Nam for rotation personnel and replacements of material are fixed as follows:

-Zones to the north of the provisional military demarcation line: Laokay, Langson, Tien-Yen, Haiphong, Vinh, Dong-Hoi, Muong-Sen;

-Zone to the south of the provisional military demarcation line: Tourane, Quinhon, Nhatrang, Bangoi, Saigon, Cap St. Jacques, Tanchau.

CHAPTER IV

Prisoners of War and Civilian Internees

Article 21

The liberation and repatriation of all prisoners of war and civilian internees detained by each of the two parties at the coming into force of the present Agreement shall be carried out under the following conditions:

(a) All prisoners of war and civilian internees of Viet-Nam, French and other nationalities captured since the beginning of hostilities in Viet-Nam during military operations or in any other circumstances of war and in any part of the territory of Viet-Nam shall be liberated within a period of thirty (30) days after the date when the cease-fire becomes effective in each theatre.

(b) The term "civilian internees" is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason and have been kept in detention by either party during the period of hostilities.

(c) All prisoners of war and civilian internees held by either party shall be surrendered to the appropriate authorities of the other party, who shall give them all possible assistance in proceeding to their country of origin, place of habitual residence or the zone of their choice.

CHAPTER V

Miscellaneous

Article 22

The Commanders of the Forces of the two parties shall ensure that persons under their respective commands who violate any of the provisions of the present Agreement are suitably punished.

Article 21

In cases in which the place of burial is known and the existence of graves has been established, the Commander of the Forces of either party shall, within a specific period after the entry into force of the Armistice Agreement, permit the graves service personnel of the other party to enter the part of Viet-Nam territory under their military control for the purpose of finding and removing the bodies of deceased military personnel of that party, including the bodies of deceased prisoners of war. The Joint Commission shall determine the procedures and the time limit for the performance of this task. The Commanders of the Forces of the two parties shall communicate to each other all information in their possession as to the place of burial of military personnel of the other party.

Article 24

The present Agreement shall apply to all the armed forces of either party. The armed forces of each party shall respect the demilitarized zone and the territory under the military control of the other party, and shall commit no act and undertake no operation against the other party and shall not engage in blockade of any kind in Viet-Nam.

For the purposes of the present Article, the word "territory" includes territorial waters and air space.

Article 25

The Commanders of the Forces of the two parties shall afford full protection and all possible assistance and co-operation to the Joint Commission and its joint groups and to the International Commission and its inspection teams in the performance of the functions and tasks assigned to them by the present Agreement.

Article 26

The costs involved in the operations of the Joint Commission and joint groups and of the International Commission and its Inspection Teams shall be shared equally between the two parties.

Article 27

The signatories of the present Agreement and their successors in their functions shall be responsible for ensuring the observance and enforcement of the terms and provisions thereof. The Commanders of the Forces of the two parties shall, within their respective commands, take all steps and make all arrangements necessary to ensure full compliance with all the provisions of the present Agreement by all elements and military personnel under their command.

The procedures laid down in the present Agreement shall, whenever necessary, be studied by the Commanders of the two parties and, if necessary, defined more specifically by the Joint Commission.

CHAPTER VI

Joint Commission and International Commission for Supervision and Control in Viet-Nam

28.

Responsibility for the execution of the agreement on the cessation of hostilities shall rest with the parties.

29.

An International Commission shall ensure the control and supervision of this execution.

30.

In order to facilitate, under the conditions shown below, the execution of provisions concerning joint actions by the two parties a Joint Commission shall be set up in Viet-Nam.

31.

The Joint Commission shall be composed of an equal number of representatives of the Commanders of the two parties.

32.

The Presidents of the delegations to the Joint Commission shall hold the rank of General,

The Joint Commission shall set up joint groups the number of which shall be determined by mutual agreement between the parties. The joint groups shall be composed of an equal number of officers from both parties. Their location on the demarcation line between the re-grouping zones shall be determined by the parties whilst taking into account the powers of the Joint Commission.

33.

The Joint Commission shall ensure the execution of the following provisions of the Agreement on the cessation of hostilities:

(a) A simultaneous and general cease-fire in Viet-Nam for all regular and irregular armed forces of the two parties.

(b) A re-groupment of the armed forces of the two parties.

(c) Observance of the demarcation lines between the re-grouping zones and of the demilitarized sectors.

Within the limits of its competence it shall help the parties to execute the said provisions, shall ensure liaison between them for the purpose of preparing and carrying out plans for the application of these provisions, and shall endeavour to solve such disputed questions as may arise between the parties in the course of executing these provisions.

34.

An International Commission shall be set up for the control and supervision of the application of the provisions of the agreement on the cessation of hostilities in Viet-Nam. It shall be composed of representatives of the following States: Canada, India and Poland.

It shall be presided over by the Representative of India.

35.

The International Commission shall set up fixed and mobile inspection teams, composed of an equal number of officers appointed by each of the above-mentioned States. The fixed teams shall be located at the following points: Laokay, Langson, Tien-Yen, Haiphong, Vinh, Dong-Hoi, Muong-Sen, Tourane, Quinhon, Nhatrang, Bangoi, Saigon, Cap St. Jacques, Tranchau. These points of location may, at a later date, be altered at the request of the Joint Commission, or of one of the parties, or of the International Commission itself, by agreement between the International Commission and the command of the party concerned. The zones of action of the mobile teams shall be the regions bordering the land and sea frontiers of Viet-Nam, the demarcation lines between the re-grouping zones and the demilitarized zones. Within the limits of these zones they shall have the right to move freely and shall receive from the local civil and military authorities all facilities they may require for the fulfilment of their tasks (provision of personnel, placing at their disposal documents needed for supervision, summoning witnesses necessary for holding enquiries, ensuring the security and freedom of movement of the

inspection teams, etc.). They shall have at their disposal such modern means of transport, observation and communication as they may require. Beyond the zones of action as defined above, the mobile teams may, by agreement with the command of the party concerned, carry out other movements within the limits of the tasks given them by the present agreement.

36.

The International Commission shall be responsible for supervising the proper execution by the parties of the provisions of the agreement. For this purpose it shall fulfil the tasks of control, observation inspection and investigation connected with the application of the provisions of the agreement on the cessation of hostilities, and it shall in particular:

(a) Control the movement of the armed forces of the two parties effected within the framework of the regroupment plan.

(b) Supervise the demarcation lines between the regrouping areas, and also the demilitarized zones.

(c) Control the operations of releasing prisoners of war and civilian Internees.

(d) Supervise at ports and airfields as well as along all frontiers of Viet-Nam the execution of the provisions of the agreement on the cessation of hostilities, regulating the introduction into the country of armed forces, military personnel and of all kinds of arms, munitions and war material.

37.

The International Commission shall, through the medium of the inspection teams mentioned above, and as soon as possible either on its own initiative, or at the request of the Joint Commission, or of one of the parties, undertake the necessary investigations both documentary and on the ground.

38.

The inspection teams shall submit to the International Commission the results of their supervision, their investigation and their observations, furthermore they shall draw up such special reports as they may consider necessary or as may be requested from them by the Commission. In the case of a disagreement within the teams, the conclusions of each member shall be submitted to the Commission.

39.

If any one inspection team is unable to settle an incident or considers that there is a violation or a threat of a serious violation the International Commission shall be informed; the latter shall study the reports and the conclusions of the inspection teams and shall inform the parties of the measures which should be taken for the settlement of the incident, ending of the violation or removal of the threat of violation.

40.

When the Joint Commission is unable to reach an agreement on the interpretation to be given to some provision or on the appraisal of a fact, the International Commission shall be informed of the disputed question. Its recommendations shall be sent directly to the parties and shall be notified to the Joint Commission.

41.

The recommendations of the International Commission shall be adopted by majority vote, subject to the provisions contained in article 42. If the votes are divided the chairman's vote shall be decisive.

The International Commission may formulate recommendations concerning amendments and additions which should be made to the provisions of the agreement on the cessation of hostilities in Viet-Nam, in order to ensure a more effective execution of that agreement. These recommendations shall be adopted unanimously.

42.

When dealing with questions concerning violations, or threats of violations, which might lead to a resumption of hostilities, namely:

(a) Refusal by the armed forces of one party to effect the movements provided for in the regroupment plan;

(b) Violation by the armed forces of one of the parties of the regrouping zones, territorial waters, or air space of the other party;

the decisions of the International Commission must be unanimous.

43.

If one of the parties refuses to put into effect a recommendation of the International Commission, the parties concerned or the Commission itself shall inform the members of the Geneva Conference.

If the International Commission does not reach unanimity in the cases provided for in article 42, it shall submit a majority report and one or more minority reports to the members of the Conference.

The International Commission shall inform the members of the Conference in all cases where its activity is being hindered.

44.

The International Commission shall be set up at the time of the cessation of hostilities in Indo-China in order that it should be able to fulfil the tasks provided for in article 36.

45.

The International Commission for Supervision and Control in Viet-Nam shall act in close co-operation with the International Commissions for Supervision and Control in Cambodia and Laos.

The Secretaries-General of these three Commissions shall be responsible for co-ordinating their work and for relations between them.

46.

The International Commission for Supervision and Control in Viet-Nam may, after consultation with the International Commissions for Supervision and Control in Cambodia and Laos, and having regard to the development of the situation in Cambodia and Laos, progressively reduce its activities. Such a decision must be adopted unanimously.

47.

All the provisions of the present Agreement, save the second sub-paragraph of Article 11, shall enter into force at 2400 hours (Geneva time) on 22 July 1954.

Done in Geneva at 2400 hours on the 20th of July 1954 in French and in Viet-Nameese, both texts being equally authentic.

Annex to the Agreement on the Cessation of Hostilities in Viet-Nam

I. Delineation of the provisional military demarcation line and the demilitarized zone (Article 1 of the Agreement; reference map: Indo-China 1/100,000 1)

(a) The provisional military demarcation line is fixed as follows, reading from east to west:

the mouth of the Song Ben Hat (Cue Tung River) and the course of that river (known as the Rao Thanh in the mountains) to the village of Bo Ho Su, then the parallel of Bo Ho Su to the Laos-Viet-Nam frontier.

(b) The demilitarized zone shall be delimited by Trung Gia Military Commission in accordance with the provisions of article 1 of the Agreement on the cessation of hostilities in Viet-Nam.

II. General delineation of the provisional assembly areas (Article 15 of the Agreement; reference maps: Indo-China 1/400,000)

(a) NORTH VIET-NAM

Delineation of the boundary of the provisional assembly area of the French Union forces

1. The perimeter of Hanoi is delimited by the arc of a circle with a radius of 15 kilometres, having as its centre the right bank abutment of Doumer Bridge and running westwards from the Red River to the Rapids Canal in the north-east.

In this particular case no forces of the French Union shall be stationed less than 2 kilometres from this perimeter, on the inside thereof.

2. The perimeter of Haiphong shall be delimited by the Song-Van-Uc as far as Kim Thanh and a line running from the Song-Van-Uc three kilometres north-east of Kim Thanh to cut Road No. 18 two kilometres east of Mao-Khe. Thence a line running three kilometres north of Road 18 to Cho-Troi and a straight line from Cho-Troi to the Mong-Duong ferry.

3. A corridor contained between:

In the south, the Red River from Thanh-Tri to Bang-Nho, thence a line joining the latter point to Do-My (southwest of Kesat), Gia-Loc and Tien Kieu;

In the north, a line running along the Rapids Canal at a distance of 1,500 metres to the north of the Canal, passing three kilometres north of Pha-Lai and Seven Pagodas and thence parallel to Road No. 18 to its point of intersection with the perimeter of Haiphong.

NOTE: Throughout the period of evacuation of the perimeter of Hanoi, the river forces of the French Union shall enjoy complete freedom of movement on the Song-Van-Uc. And the forces

of the People's Army of Viet-Nam shall withdraw three kilometres south of the south bank of the Song-Van-Uc.

Boundary between the perimeter of Hanoi and the perimeter of Haiduong

A straight line running from the Rapids Canal three kilometres west of Chi-ne and ending at Do-My (eight kilometres south-west of Kesat).

(b) CENTRAL VIET-NAM

Delineation of the boundary of the provisional assembly area of the forces of the Viet-Nam People's Army south of the Col des Nuages parallel

The perimeter of the Central Viet-Nam area shall consist of the administrative boundaries of the provinces of Quang-Ngai and Binh-Dinh as they were defined before the hostilities.

(c) SOUTH VIET-NAM

Three provisional assembly areas shall be provided for the forces of the People's Army of Viet-Nam.

The boundaries of these areas are as follows:

1. Xuyen-Moc, Ham-Tan Area

Western boundary: The course of the Song-Ray extended northwards as far as Road No. 1 to a point thereon eight kilometres east of the intersection of Road No. 1 and Road No. 3.

Northern boundary: Road No. 1 from the above-mentioned intersection to the intersection with Route Communale No. 9 situated 27 kilometres west-south-west of Phanthiet and from that intersection a straight line to Kim Thanh on the coast.

2. Plaine des Jones Area

Northern boundary: The Viet-Nam Cambodia frontier.

Western boundary: A straight line from Tong-Binh to Binh-Thanh.

Southern boundary: Course of the Fleuve Anterieur (Mekong) to ten kilometres south-east of Cao Lanh. From that point, a straight line as far as Ap-My-Dien, and from Ap-My-Dien a line parallel to and three kilometres east and then south of the Tong Doc-Loc Canal, this line reaches My-Hanh-Dong and thence Hung-Thanh-My.

Eastern boundary: A straight line from Hung-Thanh-My running northwards to the Cambodian frontier son, Doi-Bao-Voi.

3. Point Camau Area

Northern boundary: The Song-Cai-lon from its mouth to its junction with the Rach-Nuoc-Trong, thence the Rach-Nuoc-Trong to the bend five kilometres north-east of Ap-Xeo-La. Thereafter a line to the Ngan-Dua Canal and following that Canal as far as Vinh-Hung. Finally, from Vinh-Hung a north-south line to the sea.

Agreement on the Cessation of Hostilities in Cambodia

20 July 1954

CHAPTER I

Principles and Conditions Governing Execution of the Cease- Fire

Article 1

As from twenty-third July 1954 at 0800 hours (Pekin mean time) complete cessation of all hostilities throughout Cambodia shall be ordered and enforced by the Commanders of the Armed Forces of the two parties for all troops and personnel of the land, naval and air forces under their control.

Article 2

In conformity with the principle of a simultaneous cease-fire throughout Indo-China, there shall be a simultaneous cessation of hostilities throughout Cambodia, in all the combat areas and for all the forces of the two parties.

To obviate any mistake or misunderstanding and to ensure that both the ending of hostilities and all other operations arising from cessation of hostilities are in fact simultaneous,

(a) due allowance being made for the time actually required for transmission of the cease-fire order down to the lowest echelons of the combatant forces of both sides, the two parties are agreed that the complete and simultaneous cease-fire throughout the territory of Cambodia shall become effective at 8 hours (local time) on 7 August 1954. It is agreed that Pekin mean time shall be taken as local time.

(b) Each side shall comply strictly with the time-table jointly agreed upon between the parties for the execution of all operations connected with the cessation of hostilities.

Article 3

All operations and movements connected with the execution of the cessation of hostilities must be carried in a safe and orderly fashion.

(a) Within a number of days to be determined by the Commanders of both sides, after the cease-fire has been achieved, each party shall be responsible for removing and neutralizing mines, booby traps, explosives and any other dangerous devices placed by it. Should it be impossible to complete removal and neutralization before departure, the party concerned will mark the spot by placing visible signs. Sites thus cleared of mines and any other obstacles to the free movement of the personnel of the International Commission and the Joint Commission shall be notified to the latter by the local military Commanders.

(b) Any incidents that may arise between the forces of the two sides and may result from mistakes or misunderstandings shall be settled on the spot so as to restrict their scope.

(c) During the days immediately preceding the cease-fire each party undertakes not to engage in any large-scale operation between the time when the Agreement on the cessation of hostilities is signed at Geneva and the time when the cease-fire comes into effect.

CHAPTER II

Procedure for the Withdrawal of the Foreign Armed Forces and Foreign Military Personnel from the Territory of Cambodia

Article 4

1. The withdrawal outside the territory of Cambodia shall apply to:

(a) the armed forces and military combatant personnel of the French Union:

(b) the combatant formations of all types which have entered the territory of Cambodia from other countries or regions of the peninsula:

(c) all the foreign elements (or Cambodians not natives of Cambodia) in the military formations of any kind or holding supervisory functions in all political or military, administrative, economic or social bodies, having worked in liaison with the Viet-Nam military units.

2. The withdrawals of the forces and elements referred to in the foregoing paragraphs and their military supplies and materials must be completed within 90 days reckoning from the entry into force of the present Agreement.

3. The two parties shall guarantee that the withdrawals of all the forces will be effected in accordance with the purposes of the Agreement, and that they will not permit any hostile action or take any action likely to create difficulties for such withdrawals. They shall assist one another as far as possible.

4. While the withdrawals are proceeding, the two parties shall not permit any destruction or sabotage of public property or any attack on the life or property of the civilian population. They shall not permit any interference with the local civil administration.

5. The Joint Commission and the International Supervisory Commission shall supervise the execution of measures to ensure the safety of the forces during withdrawal.

6. The Joint Commission in Cambodia shall determine the detailed procedures for the withdrawals of the forces on the basis of the above-mentioned principles.

CHAPTER III.

Other Questions

A. The Khmer armed forces, natives of Cambodia

Article 5

The two parties shall undertake that within thirty days after the cease-fire order has been proclaimed, the Khmer Resistance Forces shall be demobilized on the spot; simultaneously, the troops of the Royal Khmer Army shall abstain from taking any hostile action against the Khmer Resistance Forces.

Article 6

The situation of these nationals shall be decided in the light of the Declaration made by the Delegation of Cambodia at the Geneva Conference, reading as follows:

"The Royal Government of Cambodia, In the desire to ensure harmony and agreement among the peoples of the Kingdom

Declares itself resolved to take the necessary measures to integrate all citizens, without discrimination, into the national community and to guarantee them the enjoyment of the rights and freedoms for which the Constitution of the Kingdom provides;

Affirms that all Cambodian citizens may freely Participate as electors or candidates in general elections by secret ballot."

No reprisals shall be taken against the said nationals or their families, each national being entitled to the enjoyment, without any discrimination as compared with other nationals, of all constitutional guarantees concerning the protection of person and property and democratic freedoms.

Applicants therefor may be accepted for service in the Regular Army or local police formations if they satisfy the conditions required for current recruitment of the Army and Police Corps.

The same procedure shall apply to those persons who have returned to civilian life and who may apply for civilian employment on the same terms as other nationals.

B. Ban on the Introduction of Fresh Troops, Military Personnel, Armaments and Munitions.

Military Bases

Article 7

In accordance with the Declaration made by the Delegation of Cambodia at 2400 hours on 20 July 1954 at the Geneva Conference of Foreign Ministers:

"The Royal Government of Cambodia will not join in any agreement with other States, if this agreement carries for Cambodia the obligation to enter into a military alliance not in conformity with the principles of the Charter of the United Nations or with the principles of the agreements on the cessation of hostilities, or, as long as its security is not threatened, the obligation to establish bases on Cambodian territory for the military forces of foreign powers.

"During the period which will elapse between the date of the cessation of hostilities in Viet-Nam and that of the final settlement of political problems in this country, the Royal Government of Cambodia will not solicit foreign aid in war material, personnel or instructors except for the purpose of the effective defence of the territory."

C. Civilian Internees and Prisoners of War.

Burial

Article 8

The liberation and repatriation of all civilian internees and prisoners of war detained by each of the two parties at the coming into force of the present Agreement shall be carried out under the following conditions:

(a) All prisoners of war and civilian internees of whatever nationality, captured since the beginning of hostilities in Cambodia during military operations or in any other circumstances of war and in any part of the territory of Cambodia shall be liberated after the entry into force of the present Armistice Agreement

(b) The term "civilian internees" is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason or kept in detention by either party during the period of hostilities.

(c) All foreign prisoners of war captured by either party shall be surrendered to the appropriate authorities of the other party, who shall give them all possible assistance in proceeding to the destination of their choice.

Article 9

After the entry into force of the present Agreement, if the place of burial is known and the existence of graves has been established, the Cambodian shall, within a specified period, authorize the exhumation and removal of the bodies of deceased military personnel of the other party, including the bodies of prisoners of war or personnel deceased and buried on Cambodian territory.

The Joint Commission shall fix the procedures by which this task is to be carried out and the time limit within which it must be completed.

CHAPTER IV

Joint Commission and International Commission for Supervision and Control in Cambodia

Article 10

Responsibility for the execution of the Agreement on the cessation of hostilities shall rest with the parties.

Article 11

An International Commission shall be responsible for control and supervision of the application of the provisions of the Agreement on the cessation of hostilities in Cambodia. It shall be composed of representatives of the following States: Canada, India and Poland. It shall be presided over by the representative of India. Its headquarters shall be at Phnom-Penh.

Article 12

The International Commission shall set up fixed and mobile inspection teams, composed of an equal number of officers appointed by each of the above-mentioned States.

The fixed teams shall be located at the following points: Phnom-Penh, Kompong-Cham, Kratie, Svay-Rieng, Kampot. These points of location may be altered at a later date by agreement between the Government of Cambodia and the International Commission.

The zones of action of the mobile teams shall be the regions bordering on the land and sea frontiers of Cambodia. The mobile teams shall have the right to move freely within the limits of their zones of action, and they shall receive from the local civil and military authorities all facilities they may require for the fulfilment of their tasks (provision of personnel, access to documents needed for supervision, summoning of witnesses needed for enquiries, security and freedom of movement of the inspection teams, etc.). They shall have at their disposal such modern means of transport, observation and communication as they may require.

Outside the zones of action defined above, the mobile teams may, with the agreement of the Cambodian Commander, move about as required by the tasks assigned to them under the present Agreement.

Article 13

The International Commission shall be responsible for supervising the execution by the parties of the provisions of the present Agreement. For this purpose it shall fully the functions of control, observation, inspection and investigation connected with the implementation of the provisions of the Agreement on the cessation of hostilities, and shall in particular:

(a) control the withdrawal of foreign forces in accordance with the provisions of the Agreement on the cessation of hostilities and see that frontiers are respected;

(b) control the release of prisoners- of war and civilian internees;

(G) supervise, at ports and airfields and along all the frontiers of Cambodia, the application of the Cambodian declaration concerning the introduction into Cambodia of military personnel and war materials on grounds of foreign assistance.

Article 14

A Joint Commission shall be set up to facilitate the implementation of the clauses relating to the withdrawal of foreign forces.

The Joint Commission may form joint groups the number of which shall be decided by mutual agreement between the parties.

The Joint Commission shall facilitate the implementation of the clauses of the Agreement on the cessation of hostilities relating to the simultaneous and general cease-fire in Cambodia for all regular and irregular armed forces of the two parties.

It shall assist the parties in the implementation of the said clauses; it shall ensure liaison between them for the purpose of preparing and carrying out plans for the implementation of the said clauses; it shall endeavour to settle any disputes between the parties arising out of the implementation of these clauses. The Joint Commission may send joint groups to follow the forces in their movements; such groups shall be disbanded once the withdrawal plans have been carried out.

Article 15

The Joint Commission shall be composed of an equal number of representatives of the Commands of the parties concerned.

Article 16

The International Commission shall, through the medium of the inspection teams mentioned above and as soon as possible, either on its own initiative or at the request of the Joint Commission or of one of the parties, undertake the necessary investigations both documentary and on the ground.

Article 17

The inspection teams shall transmit to the International Commission the results of their supervision, investigations and observations; furthermore, they shall draw up such special reports as they may consider necessary or as may be requested from them by the Commission. In the case of a disagreement within the teams, the findings of each member shall be transmitted to the Commission.

Article 18

If an inspection team is unable to settle an incident or considers that there is a violation or threat of a serious violation, the International Commission shall be informed, the Commission shall examine the reports and findings of the inspection teams and shall inform the parties of the measures to be taken for the settlement of the incident, ending of the violation or removal of the threat of violation.

Article 19

When the Joint Commission is unable to reach agreement on the interpretation of a provision or on the appraisal of a fact, the International Commission shall be informed of the disputed question. Its recommendations shall be sent directly to the parties and shall be notified to the Joint Commission.

Article 20

The recommendations of the International Commission shall be adopted by a majority vote, subject to the provisions of article 21. If the votes are equally divided, the Chairman's vote shall be decisive.

The International Commission may make recommendations concerning amendments and additions which should be made to the provisions of the Agreement on the cessation of hostilities in Cambodia, in order to ensure more effective execution of the said Agreement. These recommendations shall be adopted unanimously.

Article 21

On questions concerning violations, or threats of violations, which might lead to a resumption of hostilities, and in particular,

(a) refusal by foreign armed forces to effect the movements provided for the withdrawal plan,

(b) violation or threat of violation of the country's integrity by foreign armed forces, the decisions of the International Commission must be unanimous.

Article 22

If one of the parties refuses to put a recommendation of the International Commission into effect, the parties concerned or the Commission itself shall inform the members of the Geneva Conference.

If the International Commission does not reach unanimity in the cases provided for in article 21, it shall transmit a majority report and one or more minority reports to members of the Conference.

The International Commission shall inform the members of the Conference of all cases in which its work is being hindered.

Article 23

The International Commission shall be set up at the time of the cessation of hostilities in Indo-China in order that it may be able to perform the tasks prescribed in article 13.

Article 25

The International Commission for Supervision and Control in Cambodia shall act in close cooperation with the International Commissions in Viet-Nam and Laos.

The Secretaries-General of these three Commissions shall be responsible for coordinating their work and for relations between them.

Article 25

The International Commission for Supervision and Control in Cambodia may, after consultation with the International Commissions in Viet-Nam and in Laos, and having regard to the development of the situation in Viet-Nam and in Laos, progressively reduce its activities. Such a decision must be adopted unanimously.

CHAPTER V

Implementation

Article 26

The Commanders of the forces of the two parties shall ensure that persons under their respective commands who violate any of the provisions of the present Agreement are suitably punished.

Article 27

The present Agreement on the cessation of hostilities shall apply to all the armed forces of either party.

Article 28

The Commanders of the forces of the two parties shall afford full protection and all possible assistance and co-operation to the Joint Commission and to the International Commission and its inspection teams in the performance of their functions.

Article 29

The Joint Commission, composed of an equal number of representatives of the Commands of the two parties, shall assist the parties in the implementation of all the clauses of the Agreement on the cessation of hostilities, ensure liaison between the two parties, draw up plans for the implementation of the Agreement, and endeavour to settle any dispute arising out of the implementation of the said clauses and plans.

Article 30

The costs involved in the operation of the Joint Commission shall be shared equally between the two parties.

Article 31

The signatories of the present Agreement on the cessation of hostilities and their successors in their functions shall be responsible for the observance and enforcement of the terms and provisions thereof. The Commanders of the forces of the two parties shall, within their respective commands, take all steps and make all arrangements necessary to ensure full compliance with all the provisions of the present Agreement by all military personnel under their command.

Article 32

The procedures laid down in the present Agreement shall, whenever necessary be examined by the Commands of the two parties and, if necessary, defined more specifically by the Joint Commission.

Article 33

All the provisions of the present Agreement shall enter into force at 00 hours (Geneva time) on 23 July 1954.

Done at Geneva on 20 July 1954.

Agreement on the Cessation of Hostilities in Laos

20 July 1954

CHAPTER I

Cease-Fire and Evacuation of Foreign Armed Forces and Foreign Military Personnel

Article 1.

The Commanders of the armed forces of the parties in Laos shall order and enforce the complete cessation of all hostilities in Laos by all armed forces under their control, including all units and personnel of the ground, naval and air forces.

Article 2.

In accordance with the principle of a simultaneous cease-fire throughout Indo-China the cessation of hostilities shall be simultaneous throughout the territory of Laos in all combat areas and for all forces of the two parties.

In order to prevent any mistake or misunderstanding and to ensure that both the cessation of hostilities and the disengagement and movements of the opposing forces are in fact simultaneous,

(a) Taking into account the time effectively required to transmit the cease-fire order down to the lowest echelons of the combatant forces on both sides, the two parties are agreed that the complete and simultaneous cease-fire throughout the territory of Laos shall become effective at 8 hours local time on 6 August 1954. It is agreed that Pekin mean time shall be taken as local time.

(b) The Joint Commission for Laos shall draw up a schedule for the other operations resulting from the cessation of hostilities.

NOTE: The cease-fire shall become effective 15 days after the entry into force of the present Agreement.

Article 3

All operations and movements entailed by the cessation of hostilities and re-grouping must proceed in a safe and orderly fashion:

(a) Within a number of days to be determined on the spot by the Joint Commission in Laos each party shall be responsible for removing and neutralizing mines, booby traps, explosives and any other dangerous substance placed by it. In the event of its being impossible to complete the work of removal and neutralization in time, the party concerned shall mark the spot by placing visible signs there.

(b) As regards the security of troops on the move following the lines of communication in accordance with the schedule previously drawn up by the Joint Armistice Commission in Laos and the safety of the assembly areas, detailed measures shall be adopted in each case by the Joint Armistice Commission in Laos. In particular, while the forces of one party are withdrawing by a line of communication passing through the territory of the other party (road or waterways) the forces of the latter party shall provisionally withdraw two kilometres on either side of such line of communication, but in such a manner as to avoid interfering with the movement of the civil population.

Article 4

The withdrawals and transfers of military forces, supplies and equipment shall be effected in accordance with the following principles:

(a) The withdrawals and transfers of the military forces, supplies and equipment of the two parties shall be completed within a period of 120 days from the day on which the Armistice Agreement enters into force.

The two parties undertake to communicate their transfer plans to each other, for information, within 25 days of the entry into force of the present Agreement.

(b) The withdrawals of the Viet-Nameese People's Volunteers from Laos to Viet-Nam shall be effected by provinces. The position of those volunteers who were settled in Laos before the hostilities shall form the subject of a special convention.

(c) The routes for the withdrawal of the forces of the French Union and Viet-Nameese People's Volunteers in Laos from Laotian territory shall be fixed on the spot by the Joint Commission.

(d) The two parties shall guarantee that the withdrawals and transfers of all forces will be effected in accordance with the purposes of this Agreement, and that they will not permit any hostile action or take action of any kind whatever which might hinder such withdrawals or transfers. The parties shall assist each other as far as possible.

(e) While the withdrawals and transfers of the forces are proceeding, the two parties shall not permit any destruction or sabotage of any public property or any attack on the life or property of the local civilian population. They shall not permit any interference with the local civil administration.

(f) The Joint Commission and the International Commission shall supervise the implementation of measures to ensure the safety of the forces during withdrawal and transfer.

(g) The Joint Commission in Laos shall determine the detailed procedures for the withdrawals and transfers of the forces in accordance with the above-mentioned principles.

Article 5

During the days immediately preceding the cease-fire each party undertakes not to engage in any large-scale operation between the time when the Agreement on the cessation of hostilities is signed at Geneva and the time when the cease-fire comes into effect.

CHAPTER II

Prohibition of the Introduction of Fresh Troops, Military Personnel, Armaments and Munitions

Article 6

With effect from the proclamation of the cease-fire the introduction into Laos of any reinforcements of troops or military personnel from outside Laotian territory is prohibited.

Nevertheless, the French High Command may leave a specified number of French military personnel required for the training of the Laotian national army in the territory of Laos; the strength of such personnel shall not exceed one thousand five hundred (1,500) officers and non-commissioned officers.

Article 7

Upon the entry into force of the present Agreement, the establishment of new military bases is prohibited throughout the territory of Laos.

Article 8

The High Command of the French forces shall maintain in the territory of Laos the personnel required for the maintenance of two French military establishments, the first at Seno and the second in the Mekong valley, either in the province of Vientiane or downstream from Vientiane.

The effectives maintained in these military establishments shall not exceed a total of three thousand five hundred (3,500) men.

Article 9

Upon the entry into force of the present Agreement and in accordance with the declaration made at the Geneva Conference by the Royal Government of Laos on 20 July 1954,(2) the introduction into Laos of armaments, munitions and military equipment of all kinds is prohibited, with the exception of a specified quantity of armaments in categories specified as necessary for the defence of Laos.

Article 10

The new armaments and military personnel permitted to enter Laos in accordance with the terms of Article 9 above shall enter Laos at the following points only: Luang-Prabang, Xieng-Khouang, Vientiane, Seno, Pakse, Savannakhet and Tchepone.

CHAPTER III

Disengagement of the Forces-Assembly Areas-Concentration Areas

Article 11

The disengagement of the armed forces of both sides, including concentration of the armed forces, movements to rejoin the provisional assembly areas allotted to one party and provisional withdrawal movements by the other party, shall be completed within a period not exceeding fifteen (15) days after the cease fire.

Article 12

The Joint Commission in Laos shall fix the site and boundaries:

- of the five (5) provisional assembly areas for the reception of the Vietnamese People's Volunteer forces

- of the five (5) provisional assembly areas for the reception of the

French forces in Laos

- of the twelve (12) provisional assembly areas, one to each province, for the reception of the fighting units of "Pathet Lao".

- The forces of the Laotian National Army shall remain in situ during the entire duration of the operations of disengagement and transfer of foreign forces and fighting units of "Pathet Lao".

Article 13

The foreign Forces shall be transferred outside Laotian territory as follows:

(1) French Forces:

The French forces will be moved out of Laos by road (along routes laid down by the Joint Commission in Laos) and also by air and inland waterway;

(2) Vietnamese People's Volunteer forces:

These forces will be moved out of Laos by land, along routes and in accordance with a schedule to be determined by the Joint Commission in Laos in accordance with principle of simultaneous withdrawal of foreign forces.

Article 14

Pending a political settlement, the fighting units of "Pathet Lao"; concentrated in the provisional assembly areas, shall move into the Provinces of Phongsaly and Sam-Neua except for any military personnel who wish to be demobilized where they are. They will be free to move between these two Provinces in a corridor along the frontier between Laos and Viet-Nam bounded on the south by the line SOP KIN, NA MI, SOP SANG-MUONG SON.

Concentration shall be completed within one-hundred-and-twenty (120) days from the date of entry into force of the present Agreement.

Article 15

Each party undertakes to refrain from any reprisals or discrimination against persons or organizations for their activities during the hostilities and also undertakes to guarantee their democratic freedoms.

CHAPTER IV

Prisoners of War and Civilian Internees

Article 16

The liberation and repatriation of all prisoners of war and civilian internees detained by each of the two parties at the coming into force of the present Agreement shall be carried out under the following conditions:

(a) All prisoners of war and civilian internees of Laotian and other nationalities captured, since the beginning of hostilities in Laos during military operations or in any other circumstances of war and in any part of the territory of Laos shall be liberated within a period of thirty (30) days after the date when the cease-fire comes into effect.

(b) The term "civilian internees" is understood to mean all persons who, having in any way contributed to the political and armed strife between the two parties, have been arrested for that reason or kept in detention by either party during the period of hostilities.

(c) All foreign prisoners of war captured by either party shall be surrendered to the appropriate authorities of the other party, who shall give them all possible assistance in proceeding to the destination of their choice.

CHAPTER V

Miscellaneous

Article 17

The Commanders of the forces of the two parties shall ensure that persons under their respective commands who violate any of the provisions of the present Agreement are suitably punished.

Article 18

In cases in which the place of burial is known and the existence of graves has been established, the Commander of the forces of either party shall, within a specified period after the entry into force of the present Agreement, permit the graves service of the other party to enter that part of Laotian territory under his military control for the purpose of finding and removing the bodies of deceased military personnel of that party, including the bodies of deceased prisoners of war.

The Joint Commission shall fix the procedures by which this task is carried out and the time limits within which it must be completed. The Commanders of the forces of each party shall communicate to the other all information in his possession as to the place of burial of military personnel of the other party.

Article 19

The present Agreement shall apply to all the armed forces of either party. The armed forces of each party shall respect the territory under the military control of the other party, and engage in no hostile act against the other party.

For the purposes of the present article the word "territory" includes territorial waters and air space.

Article 20

The Commanders of the forces of the two parties shall afford full protection and all possible assistance and co-operation to the Joint Commission and its joint organs and to the International Commission and its inspection teams in the performance of the functions and tasks assigned to them by the present Agreement.

Article 21

The costs involved in the operation of the Joint Commission and its joint groups and of the International Commission and its inspection teams shall be shared equally between the two parties.

Article 22

The signatories of the present Agreement and their successors in their functions shall be responsible for the observance and enforcement of the terms and provisions thereof. The Commanders of the forces of the two parties shall, within their respective commands, take all steps and make all arrangements necessary to ensure full compliance with all the provisions of the present Agreement by all military personnel under their command.

Article 23

The procedures laid down in the present Agreement shall, whenever necessary, be examined by the Commanders of the two parties and, if necessary, defined more specifically by the Joint Commission.

CHAPTER VI

Joint Commission and International Commission for Supervision and Control in Laos

Article 24

Responsibility for the execution of the agreement on the cessation of hostilities shall rest with the parties.

Article 25

An International Commission shall be entrusted with control and supervision over the application of the provisions of the agreement on the cessation of hostilities in Laos. It shall be composed of representatives of the following States: Canada, India and Poland.

It shall be presided over by the Representative of India. Its headquarters shall be at Vientiane.

Article 26

The International Commission shall set up fixed and mobile inspection teams, composed of an equal number of officers appointed by each of the above-mentioned States.

The fixed teams shall be located at the following points: Pakse Seno, Tchepone, Vientiane, Xieng-Khonang, Phongsaly, Sophao (province of Samneua). These points of location may, at a later date, be altered by agreement between the Government of Laos and the International Commission.

The zones of action of the mobile teams shall be the regions bordering the land frontiers of Laos. Within the limits of their zones of action they shall have the right to move freely and shall receive from the local civil and military authorities all facilities they may require for the fulfilment of their tasks (provision of personnel, access to documents needed for supervision,

summoning of witnesses needed for holding enquiries, the security and freedom of movement of the inspection teams etc...). They shall have at their disposal such modern means of transport, observation and communication as they may require.

Outside the zones of action defined above, the mobile teams may, with the agreement of the Command of the party concerned, move about as required by the tasks assigned to them by the present agreement.

Article 27

The International Commission shall be responsible for supervising the execution by the parties of the provisions of the present agreement. For this purpose it shall fulfil the functions of control, observation, inspection and investigation connected with the implementation of the provisions of the agreement on the cessation of hostilities, and shall in particular:

(a) Control the withdrawal of foreign forces in accordance with the provisions of the agreement on the cessation of hostilities and see that frontiers are respected.

(b) Control the release of prisoners of war and civilian internees.

(c) Supervise, at ports and airfields and along all the frontiers of Laos, the implementation of the provisions regulating the introduction into Laos of military personnel and war materials.

(d) Supervise the implementation of the clauses of the agreement on the cessation of hostilities relating to rotation of personnel and to supplies for French Union security forces maintained in Laos.

Article 28

A Joint Commission shall be set up to facilitate the implementation of the clauses relating to the withdrawal of foreign forces.

The Joint Commission shall form joint groups, the number of which shall be decided by mutual agreement between the parties.

The Joint Commission shall facilitate the implementation of the clauses of the agreement on the cessation of hostilities relating to the simultaneous and general cease-fire in Laos for all regular and irregular armed forces of the two parties.

It shall assist the parties in the implementation of the said clauses; it shall ensure liaison between them for the purpose of preparing and carrying out plans for the implementation of the said clauses; it shall endeavour to settle any disputes between the parties arising out of the implementation of these clauses. The joint groups shall follow the forces in their movements and shall be disbanded once the withdrawal plans have been carried out.

Article 29

The Joint Commission and the Joint Groups shall be composed of an equal number of representatives of the commands of the parties concerned.

Article 30

The International Commission shall, through the medium of the inspection teams mentioned above, and as soon as possible either on its own initiative, or at the request of the Joint Commission, or of one of the parties, undertake the necessary investigations both documentary and on the ground.

Article 31

The inspection teams shall submit to the International Commission the results of their supervision, investigation and observations, furthermore they shall draw up such special reports as they may consider necessary or as may be requested from them by the Commission. In the case of a disagreement within the teams, the findings of each member shall be transmitted to the Commission.

Article 32

If an inspection team is unable to settle an incident or considers that there is a violation or a threat of a serious violation the International Commission shall be informed; the latter shall examine the reports and findings of the inspection teams and shall inform the parties of the measures which should be taken for the settlement of the incident, ending of the violation or removal of the threat of violation.

Article 33

When the Joint Commission is unable to reach an agreement on the interpretation of a provision or on the appraisal of a fact, the International Commission shall be informed of the disputed question. Its recommendations shall be sent directly to the parties and shall be notified to the Joint Commission.

Article 34

The recommendations of the International Commission shall be adopted by majority vote, subject to the provisions contained in article 35. If the votes are equally divided the chairman's vote shall be decisive.

The International Commission may make recommendations concerning amendments and additions which should be made to the provisions of the agreement on the cessation of hostilities in Laos, in order to ensure more effective execution of the said agreement. These recommendations shall be adopted unanimously.

Article 35

On questions concerning violations, or threats of violations, which might lead to a resumption of hostilities, and in particular:

(a) Refusal by foreign armed forces to effect the movements provided for in the withdrawal plan;

(b) Violation or threat of violation of the country's integrity by foreign armed forces,

the decisions of the International Commission must be unanimous.

Article 36

If one of the parties refuses to put a recommendation of the International Commission into effect, the parties concerned or the Commission itself shall inform the members of the Geneva Conference.(3) If the International Commission does not reach unanimity in the cases provided for in article 35, it shall transmit a majority report and one or more minority reports to the members of the Conference. The International Commission shall inform the members of the Conference of all cases in which its work is being hindered.

Article 37

The International Commission shall be set up at the time of the cessation of hostilities in Indo-China in order that it may be able to fulfil the tasks prescribed in article 27.

Article 38

The International Commission for Supervision and Control in Laos shall act in close co-operation with the International Commissions in Viet-Nam and Cambodia.

The Secretaries-General of these three Commissions shall be responsible for co-ordinating their work and for relations between them.

Article 39

The International Commission for Supervision and Control in Laos may, after consultation with the International Commissions in Cambodia and Viet-Nam having regard to the development of the situation in Cambodia and Viet-Nam, progressively reduce its activities. Such a decision must be reduced unanimously [sic]. These recommendations shall be adopted unanimously.

CHAPTER VII

Article 40

All the provisions of the present Agreement, save paragraph (a) of Article 2, shall enter into force at 24 hours (Geneva time) on 22 July 1954.

Article 41

Done in Geneva (Switzerland) on 20 July 1954, at 24 hours, in the French language.

Final Declaration of the Geneva Conference on the Problem of Restoring Peace in Indo-China

21 July 1954

FINAL DECLARATION, dated the 21st July, 1954, of the Geneva Conference on the problem of restoring peace in Indo-China, in which the representatives of Cambodia, the Democratic Republic of Viet-Nam, France, Laos, the People's Republic of China, the State of Viet-Nam, the Union of Soviet Socialist Republics, the United Kingdom, and the United States of America took part.

1. The Conference takes note of the agreements ending hostilities in Cambodia, Laos and Viet-Nam and organizing international control and the supervision of the execution of the provisions of these agreements.

2. The Conference expresses satisfaction at the ending of hostilities in Cambodia, Laos and Viet-Nam; the Conference expresses its conviction that the execution of the provisions set out in the present declaration and in the agreements on the cessation of hostilities will permit Cambodia, Laos and Viet-Nam henceforth to play their part, in full independence and sovereignty, in the peaceful community of nations.

3. The Conference takes note of the declarations made by the Governments of Cambodia and of Laos of their intention to adopt measures permitting all citizens to take their place in the national community, in particular by participating in the next general elections, which, in conformity with the constitution of each of these countries, shall take place in the course of the year 1955, by secret ballot and in conditions of respect for fundamental freedoms.

4. The Conference takes note of the clauses in the agreement on the cessation of hostilities in Viet-Nam prohibiting the introduction into Viet-Nam of foreign troops and military personnel as well as of all kinds of arms and munitions. The Conference also takes note of the declarations made by the Governments of Cambodia and Laos of their resolution not to request foreign aid, whether in war material, in personnel or in instructors except for the purpose of the effective defence of their territory and, in the case of Laos, to the extent defined by the agreements on the cessation of hostilities in Laos.

5. The Conference takes note of the clauses in the agreement on the cessation of hostilities in Viet-Nam to the effect that no military base under the control of a foreign State may be established in the regrouping zones of the two parties, the latter having the obligation to see that the zones allotted to them shall not constitute part of any military alliance and shall not be utilized for the resumption of hostilities or in the service of an aggressive policy. The Conference also takes note of the declarations of the Governments of Cambodia and Laos to the effect that they will not join in any agreement with other States if this agreement includes the obligation to participate in a military alliance not in conformity with the principles of the Charter of the United Nations or, in the case of Laos, with the principles of the agreement on the cessation of hostilities

in Laos or, so long as their security is not threatened, the obligation to establish bases on Cambodian or Laotian territory for the military forces of foreign Powers.

6. The Conference recognizes that the essential purpose of the agreement relating to Viet-Nam is to settle military questions with a view to ending hostilities and that the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary. The Conference expresses its conviction that the execution of the provisions set out in the present declaration and in the agreement on the cessation of hostilities creates the necessary basis for the achievement in the near future of a political settlement in Viet-Nam.

7. The Conference declares that, so far as Viet-Nam is concerned, the settlement of political problems, effected on the basis of respect for the principles of independence, unity and territorial integrity, shall permit the Viet-Nameese people to enjoy the fundamental freedoms, guaranteed by democratic institutions established as a result of free general elections by secret ballot. In order to ensure that sufficient progress in the restoration of peace has been made, and that all the necessary conditions obtain for free expression of the national will, general elections shall be held in July 1956, under the supervision of an international commission composed of representatives of the Member States of the International Supervisory Commission, referred to in the agreement on the cessation of hostilities. Consultations will be held on this subject between the competent representative authorities of the two zones from 20 July 1955 onwards.

8. The provisions of the agreements on the cessation of hostilities intended to ensure the protection of individuals and of property must be most strictly applied and must, in particular, allow everyone in Viet-Nam to decide freely in which zone he wishes to live.

9. The competent representative authorities of the Northern and Southern zones of Viet-Nam, as well as the authorities of Laos and Cambodia, must not permit any individual or collective reprisals against persons who have collaborated in any way with one of the parties during the war, or against members of such persons' families.

10. The Conference takes note of the declaration of the Government of the French Republic to the effect that it is ready to withdraw its troops from the territory of Cambodia, Laos and Viet-Nam, at the request of the governments concerned and within periods which shall be fixed by agreement between the parties except in the cases where, by agreement between the two parties, a certain number of French troops shall remain at specified points and for a specified time.

11. The Conference takes note of the declaration of the French Government to the effect that for the settlement of all the problems connected with the re-establishment and consolidation of peace in Cambodia, Laos and Viet-Nam, the French Government will proceed from the principle of respect for the independence and sovereignty, unity and territorial integrity of Cambodia, Laos and Viet-Nam.

12. In their relations with Cambodia, Laos and Viet-Nam, each member of the Geneva Conference undertakes to respect the sovereignty, the independence, the unity and the territorial

integrity of the above-mentioned states, and to refrain from any interference in their internal affairs.

13. The members of the Conference agree to consult one another on any question which may be referred to them by the International Supervisory Commission, in order to study such measures as may prove necessary to ensure that the agreements on the cessation of hostilities in Cambodia, Laos and Viet-Nam are respected.

Source: The Avalon Project, Yale Law School

American Foreign Policy 1950-1955
Basic Documents Volumes I and II
Department of State Publication 6446
General Foreign Policy Series 117
Washington, DC : U.S. Government Printing Office, 1957

ឧបសម្ព័ន្ធទី៤

MOFA to release new version of e-passport as of
January 11, 2021(Press Release no. 283)

MOFA to release new version of e-passport as of January 11, 2021

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Press Release no. 283

Ministry of Foreign Affairs

Republic of China (Taiwan)

November 30, 2020

MOFA to release new version of e-passport as of January 11, 2021

On January 11, 2021, the Ministry of Foreign Affairs (MOFA) will begin issuing a new version of the e-passport of the Republic of China (Taiwan) with an updated cover design that makes identifying the citizenship of its holders easier. The new design, announced on September 2 this year, preserves the main elements and layout of the current design but enlarges the font size of "TAIWAN" and repositions the official English name "REPUBLIC OF CHINA" in a circle around the national emblem. Applications for the new version of the e-passport may be made domestically or submitted to Taiwan's overseas missions.

A limited quantity of small gifts will be available to those who submit completed passport applications on January 11 to the Bureau of Consular Affairs in Taipei or any of MOFA's Central, Southern, Eastern, or Southwestern Taiwan Offices. Applications received before noon on the same day at the aforementioned locations will also be entered into a computerized drawing, with applicants having a chance to obtain a new passport with a number ending in 001 to 100. The 100 lucky applicants will be announced on the afternoon of January 11 on the MOFA website.

Taiwan passport holders may continue to use their existing passports until they expire. They may also apply for an e-passport with the new design regardless of the remaining validity period of their existing passports. Application fees will remain at NT\$1,300 (NT\$900 for applicants under the age of 14); application requirements and procedures will also remain unchanged.

MOFA has instructed its overseas missions to notify foreign governments, customs and immigration authorities at airports and seaports, the International Air Transport Association, and airlines about Taiwan's new biometric passport to facilitate smooth and efficient customs clearance for its holders.

檔案下載

- [FAQ](#) 

(205 KB) 更新日期：2020-12-14 下載次數：1300

- [New Taiwan Passport](#) 

(58 KB) 更新日期：2020-12-14 下載次數：1384

ឧបសម្ព័ន្ធទី៥

មហាសន្និបាតអង្គការសហប្រជាជាតិ

United Nations General Assembly Twenty-sixth session

2751 (XXVI). Admission of Bhutan to membership in the United Nations

The General Assembly,

Having received the recommendation of the Security Council of 10 February 1971 that Bhutan should be admitted to membership in the United Nations,¹

Having considered the application for membership of Bhutan,²

Decides to admit Bhutan to membership in the United Nations.

*1934th plenary meeting,
21 September 1971.*

2752 (XXVI). Admission of Bahrain to membership in the United Nations

The General Assembly,

Having received the recommendation of the Security Council of 18 August 1971 that Bahrain should be admitted to membership in the United Nations,³

Having considered the application for membership of Bahrain,⁴

Decides to admit Bahrain to membership in the United Nations.

*1934th plenary meeting,
21 September 1971.*

2753 (XXVI). Admission of Qatar to membership in the United Nations

The General Assembly,

Having received the recommendation of the Security Council of 15 September 1971 that Qatar should be admitted to membership in the United Nations,⁵

Having considered the application for membership of Qatar,⁶

Decides to admit Qatar to membership in the United Nations.

*1934th plenary meeting,
21 September 1971.*

2754 (XXVI). Admission of Oman to membership in the United Nations

The General Assembly,

Having received the recommendation of the Security Council of 30 September 1971 that Oman should be admitted to membership in the United Nations,⁷

Having considered the application for membership of Oman,⁸

Decides to admit Oman to membership in the United Nations.

*1957th plenary meeting,
7 October 1971.*

2758 (XXVI). Restoration of the lawful rights of the People's Republic of China in the United Nations

The General Assembly,

Recalling the principles of the Charter of the United Nations,

Considering that the restoration of the lawful rights of the People's Republic of China is essential both for the protection of the Charter of the United Nations and for the cause that the United Nations must serve under the Charter,

Recognizing that the representatives of the Government of the People's Republic of China are the only lawful representatives of China to the United Nations and that the People's Republic of China is one of the five permanent members of the Security Council,

Decides to restore all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations related to it.

*1976th plenary meeting,
25 October 1971.*

2763 (XXVI). Report of the International Atomic Energy Agency

The General Assembly,

Having received the report of the International Atomic Energy Agency to the General Assembly for the year 1970/1971,⁹

Aware that the statement of the Director-General of the International Atomic Energy Agency of 8 November 1971¹⁰ brings up to date major developments since the report was published,

1. Takes note of the report of the International Atomic Energy Agency;

2. Appreciates the constructive role that the International Atomic Energy Agency is playing in the peaceful application of nuclear energy for the welfare of Member States;

3. Commends the work being undertaken by the International Atomic Energy Agency to meet its safeguards responsibilities;

4. Further commends the co-operation of the International Atomic Energy Agency with the United Nations in organizing the Fourth International Con-

¹ Official Records of the General Assembly, Twenty-sixth Session, Annexes, agenda item 25, document A/8278.

² A/8275. For the printed text of this document, see Official Records of the Security Council, Twenty-fifth Year, Supplement for October, November and December 1970, document S/10050.

³ Official Records of the General Assembly, Twenty-sixth Session, Annexes, agenda item 25, document A/8359.

⁴ A/8358. For the printed text of this document, see Official Records of the Security Council, Twenty-sixth Year, Supplement for July, August and September 1971, document S/10291.

⁵ Official Records of the General Assembly, Twenty-sixth Session, Annexes, agenda item 25, document A/8381.

⁶ A/8373. For the printed text of this document, see Official Records of the Security Council, Twenty-sixth Year, Supplement for July, August and September 1971, document S/10306.

⁷ Official Records of the General Assembly, Twenty-sixth Session, Annexes, agenda item 25, document A/8449.

⁸ A/8320. For the printed text of this document, see Official Records of the Security Council, Twenty-sixth Year, Supplement for April, May and June 1971, document S/10216.

⁹ International Atomic Energy Agency, Annual Report, 1 July 1970-30 June 1971 (Vienna, July 1971); transmitted to the members of the General Assembly by a note of the Secretary-General (A/8384).

¹⁰ See Official Records of the General Assembly, Twenty-sixth Session, Plenary Meetings, 1979th meeting, paras. 15-45.

